

103D CONGRESS
1ST SESSION

H. R. 13

To simplify certain provisions of the Internal Revenue Code of 1986.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. ROSTENKOWSKI introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To simplify certain provisions of the Internal Revenue Code
of 1986.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Tax Simplification Act of 1993”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or repeal of, a section or other provision, the reference
10 shall be considered to be made to a section or other provi-
11 sion of the Internal Revenue Code of 1986.

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1 **TITLE I—PROVISIONS RELATING**
2 **TO INDIVIDUALS**

3 **Subtitle A—Provision Relating to**
4 **Earned Income Credit**

5 **SEC. 101. SIMPLIFICATION OF EARNED INCOME CREDIT.**

- 6 (a) GENERAL RULE.—Section 32 (relating to earned
7 income credit) is amended by striking subsections (a) and
8 (b) and inserting the following:

- 9 “(a) ALLOWANCE OF CREDIT.—

1 “(1) IN GENERAL.—In the case of an eligible
 2 individual, there shall be allowed as a credit against
 3 the tax imposed by this subtitle for the taxable year
 4 an amount equal to the credit percentage of so much
 5 of the taxpayer’s earned income for the taxable year
 6 as does not exceed \$5,714.

7 “(2) LIMITATION.—The amount of the credit
 8 allowable to a taxpayer under paragraph (1) for any
 9 taxable year shall not exceed the excess (if any) of—

10 “(A) the credit percentage of \$5,714, over

11 “(B) the phaseout percentage of so much
 12 of the adjusted gross income (or, if greater, the
 13 earned income) of the taxpayer for the taxable
 14 year as exceeds \$9,000.

15 “(b) PERCENTAGES.—For purposes of subsection
 16 (a)—

17 “(1) IN GENERAL.—Except as otherwise pro-
 18 vided in this subsection—

In the case of an eli- gible individual with:	The credit percentage is:	The phaseout percent- age is:
1 qualifying child	23.0	16.43
2 or more qualifying children	28.8	20.58

19 “(2) TRANSITIONAL PERCENTAGES.—In the
 20 case of a taxable year beginning in 1993:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percent- age is:
1 qualifying child .	18.5	13.21
2 or more qualify- ing children	23.3	16.64''

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 32(i)(2) is amended—

(A) by striking “subsection (b)(1)” in clause (i) and inserting “subsection (a)”, and

(B) by striking “subsection (b)(1)(B)(ii)” in clause (ii) and inserting “subsection (a)(2)”.

(2) Paragraph (3) of section 162(l) is amended to read as follows:

“(3) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a).”

(3) Section 213 is amended by striking subsection (f).

(4) Subparagraph (B) of section 3507(c)(2) is amended by striking clauses (i) and (ii) and inserting the following:

“(i) of not more than the percentage
(in effect under section 32(a)(1) for an eli-

gible individual with 1 qualifying child) of
earned income not in excess of the amount
of earned income taken into account under
section 32(a)(1), which

“(ii) phases out between the amount
of earned income at which the phaseout be-
gins under subsection (a)(2) of section 32
and the amount of earned income at which
the credit under section 32 is phased out
under such subsection for an individual
with 1 qualifying child, or”.

(c) EFFECTIVE DATE.—The amendments made by
this section shall apply to taxable years beginning after
December 31, 1992.

Subtitle B—Provisions Relating to Rollover of gain on Sale of Principal Residence

SEC. 111. MULTIPLE SALES WITHIN ROLLOVER PERIOD.

(a) GENERAL RULE.—

(1) Section 1034 (relating to rollover of gain on
sale of principal residence) is amended by striking
subsection (d).

(2) Paragraph (4) of section 1034(c) is amend-
ed to read as follows:

1 “(4) If the taxpayer, during the period de-
2 scribed in subsection (a), purchases more than 1 res-
3 idence which is used by him as his principal resi-
4 dence at some time within 2 years after the date of
5 the sale of the old residence, only the first of such
6 residences so used by him after the date of such sale
7 shall constitute the new residence.”

8 (3) Subsections (h)(1) and (k) of section 1034
9 are each amended by striking “(other than the 2
10 years referred to in subsection (c)(4))”.

11 (b) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to sales of old residences (within
13 the meaning of section 1034 of the Internal Revenue Code
14 of 1986) after the date of the enactment of this Act.

15 **SEC. 112. SPECIAL RULES IN CASE OF DIVORCE.**

16 (a) IN GENERAL.—Subsection (c) of section 1034 is
17 amended by adding at the end thereof the following new
18 paragraph:

19 “(5) If—

20 “(A) a residence is sold by an individual
21 pursuant to a divorce or marital separation,
22 and

23 “(B) the taxpayer used such residence as
24 his principal residence at any time during the
25 2-year period ending on the date of such sale,

1 for purposes of this section, such residence shall be
 2 treated as the taxpayer's principal residence at the
 3 time of such sale."

4 (b) EFFECTIVE DATES.—The amendment made by
 5 subsection (a) shall apply to sales of old residences (within
 6 the meaning of section 1034 of the Internal Revenue Code
 7 of 1986) after the date of the enactment of this Act.

8 **Subtitle C—Other Provisions**

9 **SEC. 121. DEMINIMIS EXCEPTION TO PASSIVE LOSS** 10 **RULES.**

11 (a) GENERAL RULE.—Section 469 (relating to pas-
 12 sive activity losses and credits limited) is amended—

13 (1) by striking subsection (m),

14 (2) by redesignating subsection (l) as subsection
 15 (m), and

16 (3) by inserting after subsection (k) the follow-
 17 ing new subsection:

18 “(l) DE MINIMIS EXCEPTION.—

19 “(1) IN GENERAL.—In the case of a natural
 20 person, subsection (a) shall not apply to the passive
 21 activity loss for any taxable year if the amount of
 22 such loss does not exceed \$200.

23 “(2) EXCEPTION FOR ITEMS ATTRIBUTABLE TO
 24 PUBLICLY TRADED PARTNERSHIPS.—This subsection
 25 shall not apply to items treated separately under

1 subsection (k) (and such items shall not be taken
2 into account in determining whether paragraph (1)
3 applies to the taxpayer for the taxable year with re-
4 spect to other items).

5 “(3) ESTATES ELIGIBLE.—For purposes of this
6 subsection, an estate shall be treated as a natural
7 person with respect to any taxable year ending less
8 than 2 years after the death of the decedent.

9 “(4) MARRIED INDIVIDUALS FILING SEPA-
10 RATELY.—

11 “(A) IN GENERAL.—This subsection shall
12 not apply to a taxpayer who—

13 “(i) is a married individual filing a
14 separate return for the taxable year, and

15 “(ii) does not live apart from his
16 spouse at all times during such taxable
17 year.

18 “(B) LIMITATION.—Paragraph (1) shall be
19 applied by substituting ‘\$100’ for ‘\$200’ in the
20 case of a married individual who files a sepa-
21 rate return for the taxable year and to whom
22 this subsection applies after the application of
23 subparagraph (A).”

24 (b) CONFORMING AMENDMENTS.—

1 (1) Subparagraph (C) of section 56(b)(1) is
2 amended by striking clause (ii) and redesignating
3 the following clauses accordingly.

4 (2) Subsection (b) of section 58 is amended by
5 inserting “and” at the end of paragraph (1), by
6 striking paragraph (2), and by redesignating para-
7 graph (3) as paragraph (2).

8 (3) Paragraph (4) of section 163(d) is amended
9 by striking subparagraph (E).

10 (4) Subsection (d) of section 163 is amended by
11 striking paragraph (6).

12 (5) Subsection (h) of section 163 is amended by
13 striking paragraph (5).

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 1992.

17 **SEC. 122. PAYMENT OF TAX BY CREDIT CARD.**

18 (a) GENERAL RULE.—Section 6311 is amended to
19 read as follows:

20 **“SEC. 6311. PAYMENT BY CHECK, MONEY ORDER, OR**
21 **OTHER MEANS.**

22 “(a) AUTHORITY TO RECEIVE.—It shall be lawful for
23 the Secretary to receive for internal revenue taxes (or in
24 payment for internal revenue stamps) checks, money or-
25 ders, or any other commercially acceptable means that the

1 Secretary deems appropriate, including payment by use of
2 credit cards or debit cards, to the extent and under the
3 conditions provided in regulations prescribed by the Sec-
4 retary.

5 “(b) ULTIMATE LIABILITY.—If a check, money
6 order, or other method of payment, including payment by
7 credit card or debit card, so received is not duly paid, or
8 is paid and subsequently charged back to the Secretary,
9 the person by whom such check, or money order, or other
10 method of payment has been tendered shall remain liable
11 for the payment of the tax or for the stamps, and for all
12 legal penalties and additions, to the same extent as if such
13 check, money order, or other method of payment had not
14 been tendered.

15 “(c) LIABILITY OF BANKS AND OTHERS.—If any cer-
16 tified, treasurer’s, or cashier’s check (or other guaranteed
17 draft), or any money order, or any other means of pay-
18 ment that has been guaranteed by a financial institution
19 (such as a credit card or debit card transaction which has
20 been guaranteed expressly by a financial institution) so
21 received is not duly paid, the United States shall, in addi-
22 tion to its right to exact payment from the party originally
23 indebted therefor, have a lien for—

1 “(1) the amount of such check (or draft) upon
2 all assets of the financial institution on which
3 drawn,

4 “(2) the amount of such money order upon all
5 the assets of the issuer thereof, or

6 “(3) the guaranteed amount of any other trans-
7 action upon all the assets of the institution making
8 such guarantee,

9 and such amount shall be paid out of such assets in pref-
10 erence to any other claims whatsoever against such finan-
11 cial institution, issuer, or guaranteeing institution, except
12 the necessary costs and expenses of administration and
13 the reimbursement of the United States for the amount
14 expended in the redemption of the circulating notes of
15 such financial institution.

16 “(d) PAYMENT BY OTHER MEANS.—

17 “(1) AUTHORITY TO PRESCRIBE REGULA-
18 TIONS.—The Secretary shall prescribe such regula-
19 tions as the Secretary deems necessary to receive
20 payment by commercially acceptable means, includ-
21 ing regulations that—

22 “(A) specify which methods of payment by
23 commercially acceptable means will be accept-
24 able,

1 “(B) specify when payment by such means
2 will be considered received,

3 “(C) identify types of nontax matters re-
4 lated to payment by such means that are to be
5 resolved by persons ultimately liable for pay-
6 ment and financial intermediaries, without the
7 involvement of the Secretary, and

8 “(D) ensure that tax matters will be re-
9 solved by the Secretary, without the involve-
10 ment of financial intermediaries.

11 “(2) AUTHORITY TO ENTER INTO CON-
12 TRACTS.—Notwithstanding section 3718(f) of title
13 31, United States Code, the Secretary is authorized
14 to enter into contracts to obtain services related to
15 receiving payment by other means where cost bene-
16 ficial to the Government and is further authorized to
17 pay any fees required by such contracts.

18 “(3) SPECIAL PROVISIONS FOR USE OF CREDIT
19 CARDS.—If use of credit cards is accepted as a
20 method of payment of taxes pursuant to subsection
21 (a)—

22 “(A) a payment of internal revenue taxes
23 (or a payment for internal revenue stamps) by
24 a person by use of a credit card shall not be
25 subject to section 161 of the Truth-in-Lending

1 Act (15 U.S.C. 1666), or to any similar provi-
2 sions of State law, if the error alleged by the
3 person is an error relating to the underlying tax
4 liability, rather than an error relating to the
5 credit card account such as a computational
6 error or numerical transposition in the credit
7 card transaction or an issue as to whether the
8 person authorized payment by use of the credit
9 card,

10 “(B) a payment of internal revenue taxes
11 (or a payment for internal revenue stamps)
12 shall not be subject to section 170 of the Truth-
13 in-Lending Act (15 U.S.C. 1666i), or to any
14 similar provisions of State law,

15 “(C) a payment of internal revenue taxes
16 (or a payment for internal revenue stamps) by
17 a person by use of a debit card shall not be
18 subject to section 908 of the Electronic Fund
19 Transfer Act (15 U.S.C. 1693f), or to any simi-
20 lar provisions of State law, if the error alleged
21 by the person is an error relating to the under-
22 lying tax liability, rather than an error relating
23 to the debit card account such as a computa-
24 tional error or numerical transposition in the
25 debit card transaction or an issue as to whether

1 the person authorized payment by use of the
2 debit card,

3 “(D) the term ‘creditor’ under section
4 103(f) of the Truth-in-Lending Act (15 U.S.C.
5 1602(f)) shall not include the Secretary with re-
6 spect to credit card transactions in payment of
7 internal revenue taxes (or payment for internal
8 revenue stamps), and

9 “(E) notwithstanding any other provision
10 of law to the contrary, in the case of payment
11 made by credit card or debit card transaction of
12 an amount owed to a person as the result of the
13 correction of an error under section 161 of the
14 Truth-in-Lending Act (15 U.S.C. 1666) or sec-
15 tion 908 of the Electronic Fund Transfer Act
16 (15 U.S.C. 1693f), the Secretary is authorized
17 to provide such amount to such person as a
18 credit to that person’s credit card or debit card
19 account through the applicable credit card or
20 debit card system.

21 “(e) CONFIDENTIALITY OF INFORMATION.—

22 “(1) IN GENERAL.—Except as otherwise au-
23 thorized by this subsection, no person may use or
24 disclose any information relating to credit or debit
25 card transactions obtained pursuant to section

1 6103(k)(8) other than for purposes directly related
2 to the processing of such transactions, or the billing
3 or collection of amounts charged or debited pursuant
4 thereto.

5 “(2) EXCEPTIONS.—

6 “(A) Debit or credit card issuers or others
7 acting on behalf of such issuers may also use
8 and disclose such information for purposes di-
9 rectly related to servicing an issuer’s accounts.

10 “(B) Debit or credit card issuers or others
11 directly involved in the processing of credit or
12 debit card transactions or the billing or collec-
13 tion of amounts charged or debited thereto may
14 also use and disclose such information for pur-
15 poses directly related to—

16 “(i) statistical risk and profitability
17 assessment;

18 “(ii) transferring receivables, ac-
19 counts, or interest therein;

20 “(iii) auditing the account informa-
21 tion;

22 “(iv) complying with Federal, State,
23 or local law; and

1 “(v) properly authorized civil, crimi-
2 nal, or regulatory investigation by Federal,
3 State, or local authorities.

4 “(3) PROCEDURES.—Use and disclosure of in-
5 formation under this paragraph shall be made only
6 to the extent authorized by written procedures pro-
7 mulgated by the Secretary.

8 “(4) CROSS REFERENCE.—

**“For provision providing for civil damages for vio-
lation of paragraph (1), see section 7431.”**

9 (b) CLERICAL AMENDMENT.—The table of sections
10 for subchapter B of chapter 64 is amended by striking
11 the item relating to section 6311 and inserting the follow-
12 ing:

“Sec. 6311. Payment by check, money order, or other means.”

13 (c) AMENDMENTS TO SECTIONS 6103 AND 7431
14 WITH RESPECT TO DISCLOSURE AUTHORIZATION.—

15 (1) Subsection (k) of section 6103 and (relating
16 to confidentiality and disclosure of returns and re-
17 turn information) is amended by adding at the end
18 thereof the following new paragraph:

19 “(8) DISCLOSURE OF INFORMATION TO ADMIN-
20 ISTER SECTION 6311.—The Secretary may disclose
21 returns or return information to financial institu-
22 tions and others to the extent the Secretary deems
23 necessary for the administration of section 6311.

1 Disclosures of information for purposes other than
2 to accept payments by checks or money orders shall
3 be made only to the extent authorized by written
4 procedures promulgated by the Secretary.”

5 (2) Section 7431 (relating to civil damages for
6 unauthorized disclosure of returns and return infor-
7 mation) is amended by adding at the end thereof the
8 following new subsection:

9 “(g) SPECIAL RULE FOR INFORMATION OBTAINED
10 UNDER SECTION 6103(k)(8).—For purposes of this sec-
11 tion, any reference to section 6103 shall be treated as in-
12 cluding a reference to section 6311(e).”

13 (3) Section 6103(p)(3)(A) is amended by strik-
14 ing “or (6)” and inserting in lieu thereof “(6), or
15 (8),”.

16 (d) EFFECTIVE DATE.—The amendments made by
17 this section shall take effect on the day 9 months after
18 the date of the enactment of this Act.

19 **SEC. 123. MODIFICATIONS TO ELECTION TO INCLUDE**
20 **CHILD’S INCOME ON PARENT’S RETURN.**

21 (a) ELIGIBILITY FOR ELECTION.—Clause (ii) of sec-
22 tion 1(g)(7)(A) (relating to election to include certain un-
23 earned income of child on parent’s return) is amended to
24 read as follows:

1 “(i) such gross income is more than
2 the amount described in paragraph
3 (4)(A)(ii)(I) and less than 10 times the
4 amount so described.”.

5 (b) COMPUTATION OF TAX.—Subparagraph (B) of
6 section 1(g)(7) (relating to income included on parent’s
7 return) is amended—

8 (1) by striking “\$1,000” in clause (i) and in-
9 serting “twice the amount described in paragraph
10 (4)(A)(ii)(I)”, and

11 (2) by amending subclause (II) of clause (ii) to
12 read as follows:

13 “(II) for each such child, 15 per-
14 cent of the lesser of the amount de-
15 scribed in paragraph (4)(A)(ii)(I) or
16 the excess of the gross income of such
17 child over the amount so described,
18 and”.

19 (c) MINIMUM TAX.—Subparagraph (B) of section
20 59(j)(1) is amended by striking “\$1,000” and inserting
21 “twice the amount in effect for the taxable year under sec-
22 tion 63(c)(5)(A)”.

23 (d) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 December 31, 1992.

1 **SEC. 124. SIMPLIFIED FOREIGN TAX CREDIT LIMITATION**
2 **FOR INDIVIDUALS.**

3 (a) GENERAL RULE.—Section 904 (relating to limi-
4 tations on foreign tax credit) is amended by redesignating
5 subsection (j) as subsection (k) and by inserting after sub-
6 section (i) the following new subsection:

7 “(j) SIMPLIFIED LIMITATION FOR CERTAIN INDIVID-
8 UALS.—

9 “(1) IN GENERAL.—In the case of an individual
10 to whom this subsection applies for any taxable year,
11 the limitation of subsection (a) shall be the lesser
12 of—

13 “(A) 25 percent of such individual’s gross
14 income for the taxable year from sources with-
15 out the United States, or

16 “(B) the amount of the creditable foreign
17 taxes paid or accrued by the individual during
18 the taxable year (determined without regard to
19 subsection (c)).

20 No taxes paid or accrued by the individual during
21 such taxable year may be deemed paid or accrued in
22 any other taxable year under subsection (c).

23 “(2) INDIVIDUALS TO WHOM SUBSECTION AP-
24 PLIES.—This subsection shall apply to an individual
25 for any taxable year if—

1 “(A) the entire amount of such individual’s
2 gross income for the taxable year from sources
3 without the United States consists of qualified
4 passive income,

5 “(B) the amount of the creditable foreign
6 taxes paid or accrued by the individual during
7 the taxable year does not exceed \$200 (\$400 in
8 the case of a joint return), and

9 “(C) such individual elects to have this
10 subsection apply for the taxable year.

11 “(3) DEFINITIONS.—For purposes of this sub-
12 section—

13 “(A) QUALIFIED PASSIVE INCOME.—The
14 term ‘qualified passive income’ means any item
15 of gross income if—

16 “(i) such item of income is passive in-
17 come (as defined in subsection (d)(2)(A)
18 without regard to clause (iii) thereof), and

19 “(ii) such item of income is shown on
20 a payee statement furnished to the individ-
21 ual.

22 “(B) CREDITABLE FOREIGN TAXES.—The
23 term ‘creditable foreign taxes’ means any taxes
24 for which a credit is allowable under section
25 901; except that such term shall not include

1 any tax unless such tax is shown on a payee
2 statement furnished to such individual.

3 “(C) PAYEE STATEMENT.—The term
4 ‘payee statement’ has the meaning given to
5 such term by section 6724(d)(2).

6 “(D) ESTATES AND TRUSTS NOT ELIGI-
7 BLE.—This subsection shall not apply to any
8 estate or trust.”

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall apply to taxable years beginning after
11 December 31, 1992.

12 **SEC. 125. TREATMENT OF PERSONAL TRANSACTIONS BY**
13 **INDIVIDUALS UNDER FOREIGN CURRENCY**
14 **RULES.**

15 (a) GENERAL RULE.—Subsection (e) of section 988
16 (relating to application to individuals) is amended to read
17 as follows:

18 “(e) APPLICATION TO INDIVIDUALS.—

19 “(1) IN GENERAL.—The preceding provisions of
20 this section shall not apply to any section 988 trans-
21 action entered into by an individual which is a per-
22 sonal transaction.

23 “(2) EXCLUSION FOR CERTAIN PERSONAL
24 TRANSACTIONS.—If—

1 “(A) nonfunctional currency is disposed of
2 by an individual in any transaction, and

3 “(B) such transaction is a personal trans-
4 action,

5 no gain shall be recognized for purposes of this sub-
6 title by reason of changes in exchange rates after
7 such currency was acquired by such individual and
8 before such disposition. The preceding sentence shall
9 not apply if the gain which would otherwise be rec-
10 ognized exceeds \$200.

11 “(3) PERSONAL TRANSACTIONS.—For purposes
12 of this subsection, the term ‘personal transaction’
13 means any transaction entered into by an individual,
14 except that such term shall not include any trans-
15 action to the extent that expenses properly allocable
16 to such transaction meet the requirements of section
17 162 or 212 (other than that part of section 212
18 dealing with expenses incurred in connection with
19 taxes).”

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to taxable years beginning after
22 December 31, 1992.

1 **SEC. 126. EXPANDED ACCESS TO SIMPLIFIED INCOME TAX**
2 **RETURNS.**

3 (a) GENERAL RULE.—The Secretary of the Treasury
4 or his delegate shall take such actions as may be appro-
5 priate to expand access to simplified individual income tax
6 returns and to otherwise simplify the individual income tax
7 returns, including—

8 (1) (if appropriate) allowing taxpayers who
9 itemize deductions to file their return on Form
10 1040A, and

11 (2) removing or raising the taxable income limi-
12 tations on taxpayers who may file Form 1040A.

13 (b) REPORT.—Not later than the date 1 year after
14 the date of the enactment of this Act, the Secretary of
15 the Treasury or his delegate shall submit a report to the
16 Committee on Ways and Means of the House of Rep-
17 resentatives and the Committee on Finance of the Senate,
18 a report on his actions under subsection (a), together with
19 such recommendations as he may deem advisable.

20 **SEC. 127. TREATMENT OF CERTAIN REIMBURSED EX-**
21 **PENSES OF RURAL MAIL CARRIERS.**

22 (a) IN GENERAL.—Section 162 (relating to trade or
23 business expenses) is amended by redesignating subsection
24 (m) as subsection (n) and by inserting after subsection
25 (l) the following new subsection:

1 “(m) TREATMENT OF CERTAIN REIMBURSED EX-
2 PENSES OF RURAL MAIL CARRIERS.—

3 “(1) GENERAL RULE.—In the case of any em-
4 ployee of the United States Postal Service who per-
5 forms services involving the collection and delivery of
6 mail on a rural route and who receives qualified re-
7 imbursements for the expenses incurred by such em-
8 ployee for the use of a vehicle in performing such
9 services—

10 “(A) the amount allowable as a deduction
11 under this chapter for the use of a vehicle in
12 performing such services shall be equal to the
13 amount of such qualified reimbursements; and

14 “(B) such qualified reimbursements shall
15 be treated as paid under a reimbursement or
16 other expense allowance arrangement for pur-
17 poses of section 62(a)(2)(A) (and section 62(c)
18 shall not apply to such qualified reimburse-
19 ments).

20 “(2) DEFINITION OF QUALIFIED REIMBURSE-
21 MENTS.—For purposes of this subsection, the term
22 ‘qualified reimbursements’ means the amounts paid
23 by the United States Postal Service to employees as
24 an equipment maintenance allowance under the
25 1991 collective bargaining agreement between the

1 United States Postal Service and the National Rural
 2 Letter Carriers' Association. Amounts paid as an
 3 equipment maintenance allowance by such Postal
 4 Service under later collective bargaining agreements
 5 that supersede the 1991 agreement shall be consid-
 6 ered qualified reimbursements if such amounts do
 7 not exceed the amounts that would have been paid
 8 under the 1991 agreement, adjusted for changes in
 9 the Consumer Price Index (as defined in section
 10 1(f)(5)) since 1991.”

11 (b) TECHNICAL AMENDMENT.—Section 6008 of the
 12 Technical and Miscellaneous Revenue Act of 1988 is here-
 13 by repealed.

14 (c) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply to taxable years beginning after
 16 December 31, 1992.

17 **SEC. 128. EXEMPTION FROM LUXURY EXCISE TAX FOR CER-**
 18 **TAIN EQUIPMENT INSTALLED ON PASSENGER**
 19 **VEHICLES FOR USE BY DISABLED INDIVID-**
 20 **UALS.**

21 (a) IN GENERAL.—Paragraph (3) of section 4004(b)
 22 (relating to separate purchase of article and parts and ac-
 23 cessories therefor) is amended—

24 (1) by striking “or” at the end of subparagraph
 25 (A),

1 (2) by redesignating subparagraph (B) as sub-
2 paragraph (C), and

3 (3) by inserting after subparagraph (A) the fol-
4 lowing new subparagraph:

5 “(B) the part or accessory is installed on
6 a passenger vehicle to enable or assist an indi-
7 vidual with a disability to operate the vehicle, or
8 to enter or exit the vehicle, by compensating for
9 the effect of such disability, or”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect as if included in the amend-
12 ments made by section 11221(a) of the Omnibus Budget
13 Reconciliation Act of 1990.

14 **SEC. 129. EXCLUSION OF COMBAT PAY FROM WITHHOLD-**
15 **ING LIMITED TO AMOUNT EXCLUDABLE**
16 **FROM GROSS INCOME.**

17 (a) IN GENERAL.—Paragraph (1) of section 3401(a)
18 (defining wages) is amended by inserting before the semi-
19 colon the following: “to the extent remuneration for such
20 service is excludable from gross income under such sec-
21 tion”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall apply to remuneration paid after De-
24 cember 31, 1993.

1 **TITLE II—PENSION**
2 **SIMPLIFICATION**
3 **Subtitle A—Simplified Distribution**
4 **Rules**

5 **SEC. 201. REPEAL OF 5-YEAR INCOME AVERAGING FOR**
6 **LUMP-SUM DISTRIBUTIONS.**

7 (a) IN GENERAL.—Subsection (d) of section 402 (re-
8 lating to taxability of beneficiary of employees’ trust) is
9 amended to read as follows:

10 “(d) TAXABILITY OF BENEFICIARY OF CERTAIN
11 FOREIGN SITUS TRUSTS.—For purposes of subsections
12 (a), (b), and (c), a stock bonus, pension, or profit-sharing
13 trust which would qualify for exemption from tax under
14 section 501(a) except for the fact that it is a trust created
15 or organized outside the United States shall be treated
16 as if it were a trust exempt from tax under section
17 501(a).”

18 (b) CONFORMING AMENDMENTS.—

19 (1) Subparagraph (D) of section 402(e)(4) (re-
20 lating to other rules applicable to exempt trusts) is
21 amended to read as follows:

22 “(D) LUMP-SUM DISTRIBUTION.—For pur-
23 poses of this paragraph—

24 “(i) IN GENERAL.—The term ‘lump
25 sum distribution’ means the distribution or

1 payment within one taxable year of the re-
2 cipient of the balance to the credit of an
3 employee which becomes payable to the re-
4 cipient—

5 “(I) on account of the employee’s
6 death,

7 “(II) after the employee attains
8 age 59½,

9 “(III) on account of the employ-
10 ee’s separation from service, or

11 “(IV) after the employee has be-
12 come disabled (within the meaning of
13 section 72(m)(7)),

14 from a trust which forms a part of a plan
15 described in section 401(a) and which is
16 exempt from tax under section 501 or from
17 a plan described in section 403(a).
18 Subclause (III) of this clause shall be ap-
19 plied only with respect to an individual
20 who is an employee without regard to sec-
21 tion 401(c)(1), and subclause (IV) shall be
22 applied only with respect to an employee
23 within the meaning of section 401(c)(1).
24 For purposes of this clause, a distribution
25 to two or more trusts shall be treated as

1 a distribution to one recipient. For pur-
2 poses of this paragraph, the balance to the
3 credit of the employee does not include the
4 accumulated deductible employee contribu-
5 tions under the plan (within the meaning
6 of section 72(o)(5)).

7 “(ii) AGGREGATION OF CERTAIN
8 TRUSTS AND PLANS.—For purposes of de-
9 termining the balance to the credit of an
10 employee under clause (i)—

11 “(I) all trusts which are part of
12 a plan shall be treated as a single
13 trust, all pension plans maintained by
14 the employer shall be treated as a sin-
15 gle plan, all profit-sharing plans main-
16 tained by the employer shall be treat-
17 ed as a single plan, and all stock
18 bonus plans maintained by the em-
19 ployer shall be treated as a single
20 plan, and

21 “(II) trusts which are not quali-
22 fied trusts under section 401(a) and
23 annuity contracts which do not satisfy
24 the requirements of section 404(a)(2)
25 shall not be taken into account.

1 “(iii) COMMUNITY PROPERTY LAWS.—

2 The provisions of this paragraph shall be
3 applied without regard to community prop-
4 erty laws.

5 “(iv) AMOUNTS SUBJECT TO PEN-
6 ALTY.—This paragraph shall not apply to
7 amounts described in subparagraph (A) of
8 section 72(m)(5) to the extent that section
9 72(m)(5) applies to such amounts.

10 “(v) BALANCE TO CREDIT OF EM-
11 PLOYEE NOT TO INCLUDE AMOUNTS PAY-
12 ABLE UNDER QUALIFIED DOMESTIC RELA-
13 TIONS ORDER.—For purposes of this para-
14 graph, the balance to the credit of an em-
15 ployee shall not include any amount pay-
16 able to an alternate payee under a quali-
17 fied domestic relations order (within the
18 meaning of section 414(p)).

19 “(vi) TRANSFERS TO COST-OF-LIVING
20 ARRANGEMENT NOT TREATED AS DIS-
21 TRIBUTION.—For purposes of this para-
22 graph, the balance to the credit of an em-
23 ployee under a defined contribution plan
24 shall not include any amount transferred
25 from such defined contribution plan to a

1 qualified cost-of-living arrangement (within
2 the meaning of section 415(k)(2)) under a
3 defined benefit plan.

4 “(vii) LUMP-SUM DISTRIBUTIONS OF
5 ALTERNATE PAYEES.—If any distribution
6 or payment of the balance to the credit of
7 an employee would be treated as a lump-
8 sum distribution, then, for purposes of this
9 paragraph, the payment under a qualified
10 domestic relations order (within the mean-
11 ing of section 414(p)) of the balance to the
12 credit of an alternate payee who is the
13 spouse or former spouse of the employee
14 shall be treated as a lump-sum distribu-
15 tion. For purposes of this clause, the bal-
16 ance to the credit of the alternate payee
17 shall not include any amount payable to
18 the employee.”

19 (2) Section 402(c) (relating to rules applicable
20 to rollovers from exempt trusts) is amended by strik-
21 ing paragraph (10).

22 (3) Paragraph (1) of section 55(c) (defining
23 regular tax) is amended by striking “shall not in-
24 clude any tax imposed by section 402(d) and”.

1 (4) Paragraph (8) of section 62(a) (relating to
2 certain portion of lump-sum distributions from pen-
3 sion plans taxed under section 402(d)) is hereby re-
4 pealed.

5 (5) Section 401(a)(28)(B) (relating to coordina-
6 tion with distribution rules) is amended by striking
7 clause (v).

8 (6) Subparagraph (B)(ii) of section 401(k)(10)
9 (relating to distributions that must be lump-sum dis-
10 tributions) is amended to read as follows:

11 “(ii) LUMP-SUM DISTRIBUTION.—For pur-
12 poses of this subparagraph, the term ‘lump-sum
13 distribution’ means any distribution of the bal-
14 ance to the credit of an employee immediately
15 before the distribution.”

16 (7) Section 406(c) (relating to termination of
17 status as deemed employee not to be treated as sep-
18 aration from service for purposes of limitation of
19 tax) is hereby repealed.

20 (8) Section 407(c) (relating to termination of
21 status as deemed employee not to be treated as sep-
22 aration from service for purposes of limitation of
23 tax) is hereby repealed.

24 (9) Section 691(c) (relating to deduction for es-
25 tate tax) is amended by striking paragraph (5).

1 (10) Paragraph (1) of section 871(b) (relating
2 to imposition of tax) is amended by striking “section
3 1, 55, or 402(d)(1)” and inserting “section 1 or
4 55”.

5 (11) Subsection (b) of section 877 (relating to
6 alternative tax) is amended by striking “section 1,
7 55, or 402(d)(1)” and inserting “section 1 or 55”.

8 (12) Section 4980A(c)(4) is amended—

9 (A) by striking “to which an election under
10 section 402(e)(4)(B) applies” and inserting
11 “(as defined in section 402(e)(4)(D)) with re-
12 spect to which the individual elects to have this
13 paragraph apply”,

14 (B) by adding at the end the following new
15 flush sentence:

16 “An individual may elect to have this paragraph
17 apply to only one lump-sum distribution.”, and

18 (C) by striking the heading and inserting:

19 “(4) SPECIAL ONE-TIME ELECTION.—”.

20 (13) Section 402(e) is amended by striking
21 paragraph (5).

22 (c) EFFECTIVE DATES.—

23 (1) IN GENERAL.—The amendments made by
24 this section shall apply to taxable years beginning
25 after December 31, 1993.

1 (2) RETENTION OF CERTAIN TRANSITION
2 RULES.—Notwithstanding any other provision of
3 this section, the amendments made by this section
4 shall not apply to any distribution for which the tax-
5 payer elects the benefits of section 1122 (h)(3) or
6 (h)(5) of the Tax Reform Act of 1986. For purposes
7 of the preceding sentence, the rules of sections
8 402(c)(10) and 402(d) (as in effect before the
9 amendments made by this Act) shall apply.

10 **SEC. 202. REPEAL OF \$5,000 EXCLUSION OF EMPLOYEES'**
11 **DEATH BENEFITS.**

12 (a) IN GENERAL.—Subsection (b) of section 101 is
13 hereby repealed.

14 (b) CONFORMING AMENDMENT.—Subsection (c) of
15 section 101 is amended by striking “subsection (a) or (b)”
16 and inserting “subsection (a)”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 December 31, 1993.

20 **SEC. 203. SIMPLIFIED METHOD FOR TAXING ANNUITY DIS-**
21 **TRIBUTIONS UNDER CERTAIN EMPLOYER**
22 **PLANS.**

23 (a) GENERAL RULE.—Subsection (d) of section 72
24 (relating to annuities; certain proceeds of endowment and
25 life insurance contracts) is amended to read as follows:

1 “(d) SPECIAL RULES FOR QUALIFIED EMPLOYER
2 RETIREMENT PLANS.—

3 “(1) SIMPLIFIED METHOD OF TAXING ANNUITY
4 PAYMENTS.—

5 “(A) IN GENERAL.—In the case of any
6 amount received as an annuity under a quali-
7 fied employer retirement plan—

8 “(i) subsection (b) shall not apply,
9 and

10 “(ii) the investment in the contract
11 shall be recovered as provided in this para-
12 graph.

13 “(B) METHOD OF RECOVERING INVEST-
14 MENT IN CONTRACT.—

15 “(i) IN GENERAL.—Gross income
16 shall not include so much of any monthly
17 annuity payment under a qualified em-
18 ployer retirement plan as does not exceed
19 the amount obtained by dividing—

20 “(I) the investment in the con-
21 tract (as of the annuity starting date),
22 by

23 “(II) the number of anticipated
24 payments determined under the table
25 contained in clause (iii) (or, in the

1 case of a contract to which subsection
 2 (c)(3)(B) applies, the number of
 3 monthly annuity payments under such
 4 contract).

5 “(ii) CERTAIN RULES MADE APPLICA-
 6 BLE.—Rules similar to the rules of para-
 7 graphs (2) and (3) of subsection (b) shall
 8 apply for purposes of this paragraph.

9 “(iii) NUMBER OF ANTICIPATED PAY-
 10 MENTS.—

“If the age of the primary annuitant on the annuity starting date is:	The number of anticipated payments is:
Not more than 55	300
More than 55 but not more than 60 ...	260
More than 60 but not more than 65 ...	240
More than 65 but not more than 70 ...	170
More than 70	120

11 “(C) ADJUSTMENT FOR REFUND FEATURE
 12 NOT APPLICABLE.—For purposes of this para-
 13 graph, investment in the contract shall be de-
 14 termined under subsection (c)(1) without re-
 15 gard to subsection (c)(2).

16 “(D) SPECIAL RULE WHERE LUMP SUM
 17 PAID IN CONNECTION WITH COMMENCEMENT
 18 OF ANNUITY PAYMENTS.—If, in connection with
 19 the commencement of annuity payments under
 20 any qualified employer retirement plan, the tax-
 21 payer receives a lump sum payment—

1 “(i) such payment shall be taxable
2 under subsection (e) as if received before
3 the annuity starting date, and

4 “(ii) the investment in the contract
5 for purposes of this paragraph shall be de-
6 termined as if such payment had been so
7 received.

8 “(E) EXCEPTION.—This paragraph shall
9 not apply in any case where the primary annu-
10 itant has attained age 75 on the annuity start-
11 ing date unless there are fewer than 5 years of
12 guaranteed payments under the annuity.

13 “(F) ADJUSTMENT WHERE ANNUITY PAY-
14 MENTS NOT ON MONTHLY BASIS.—In any case
15 where the annuity payments are not made on a
16 monthly basis, appropriate adjustments in the
17 application of this paragraph shall be made to
18 take into account the period on the basis of
19 which such payments are made.

20 “(G) QUALIFIED EMPLOYER RETIREMENT
21 PLAN.—For purposes of this paragraph, the
22 term ‘qualified employer retirement plan’ means
23 any plan or contract described in paragraph
24 (1), (2), or (3) of section 4974(c).

1 “(2) TREATMENT OF EMPLOYEE CONTRIBU-
 2 TIONS UNDER DEFINED CONTRIBUTION PLANS.—
 3 For purposes of this section, employee contributions
 4 (and any income allocable thereto) under a defined
 5 contribution plan may be treated as a separate con-
 6 tract.”

7 (b) EFFECTIVE DATE.—The amendment made by
 8 this section shall apply in cases where the annuity starting
 9 date is after December 31, 1993.

10 **SEC. 204. REQUIRED DISTRIBUTIONS.**

11 (a) IN GENERAL.—Section 401(a)(9)(C) (defining re-
 12 quired beginning date) is amended to read as follows:

13 “(C) REQUIRED BEGINNING DATE.—For
 14 purposes of this paragraph—

15 “(i) IN GENERAL.—The term ‘re-
 16 quired beginning date’ means April 1 of
 17 the calendar year following the later of—

18 “(I) the calendar year in which
 19 the employee attains age 70½, or

20 “(II) the calendar year in which
 21 the employee retires.

22 “(ii) EXCEPTION.—Subclause (II) of
 23 clause (i) shall not apply—

24 “(I) except as provided in section
 25 409(d), in the case of an employee

1 who is a 5-percent owner (as defined
2 in section 416) with respect to the
3 plan year ending in the calendar year
4 in which the employee attains age
5 70¹/₂, or

6 “(II) for purposes of section 408
7 (a)(6) or (b)(3).

8 “(iii) ACTUARIAL ADJUSTMENT.—In
9 the case of an employee to whom clause
10 (i)(II) applies who retires in a calendar
11 year after the calendar year in which the
12 employee attains age 70¹/₂, the employee’s
13 accrued benefit shall be actuarially in-
14 creased to take into account the period
15 after age 70¹/₂ in which the employee was
16 not receiving any benefits under the plan.

17 “(iv) EXCEPTION FOR GOVERN-
18 MENTAL AND CHURCH PLANS.—Clauses
19 (ii) and (iii) shall not apply in the case of
20 a governmental plan or church plan. For
21 purposes of this clause, the term ‘church
22 plan’ means a plan maintained by a church
23 for church employees, and the term
24 ‘church’ means any church (as defined in
25 section 3121(w)(3)(A)) or qualified church-

1 controlled organization (as defined in sec-
2 tion 3121(w)(3)(B)).”

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall apply to years beginning after Decem-
5 ber 31, 1993.

6 **Subtitle B—Increased Access to**
7 **Pension Plans**

8 **SEC. 211. MODIFICATIONS OF SIMPLIFIED EMPLOYEE PEN-**
9 **SIONS.**

10 (a) INCREASE IN NUMBER OF ALLOWABLE PARTICI-
11 PANTS FOR SALARY REDUCTION ARRANGEMENTS.—Sec-
12 tion 408(k)(6)(B) is amended by striking “25” each place
13 it appears in the text and heading thereof and inserting
14 “100”.

15 (b) REPEAL OF PARTICIPATION REQUIREMENT.—
16 Section 408(k)(6)(A) is amended by striking clause (ii)
17 and by redesignating clauses (iii) and (iv) as clauses (ii)
18 and (iii), respectively.

19 (c) CONFORMING AMENDMENTS.—Clause (ii) of sec-
20 tion 408(k)(6)(C) and clause (ii) of section 408(k)(6)(F)
21 are each amended by striking “subparagraph (A)(iii)” and
22 inserting “subparagraph (A)(ii)”.

23 (d) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to years beginning after December
25 31, 1993.

1 **SEC. 212. TAX EXEMPT ORGANIZATIONS ELIGIBLE UNDER**
2 **SECTION 401(k).**

3 (a) GENERAL RULE.—Subparagraph (B) of section
4 401(k)(4) is amended to read as follows:

5 “(B) STATE AND LOCAL GOVERNMENTS
6 NOT ELIGIBLE.—A cash or deferred arrange-
7 ment shall not be treated as a qualified cash or
8 deferred arrangement if it is part of a plan
9 maintained by a State or local government or
10 political subdivision thereof, or any agency or
11 instrumentality thereof. This subparagraph
12 shall not apply to a rural cooperative plan.”

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to plan years beginning after De-
15 cember 31, 1993, but shall not apply to any cash or de-
16 ferred arrangement to which clause (i) of section
17 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

18 **SEC. 213. DUTIES OF SPONSORS OF CERTAIN PROTOTYPE**
19 **PLANS.**

20 (a) IN GENERAL.—The Secretary of the Treasury
21 may, as a condition of sponsorship, prescribe rules defin-
22 ing the duties and responsibilities of sponsors of master
23 and prototype plans, regional prototype plans, and other
24 Internal Revenue Service preapproved plans.

25 (b) DUTIES RELATING TO PLAN AMENDMENT, NOTI-
26 FICATION OF ADOPTERS, AND PLAN ADMINISTRATION.—

1 The duties and responsibilities referred to in subsection

2 (a) may include—

3 (1) the maintenance of lists of persons adopting
4 the sponsor's plans, including the updating of such
5 lists not less frequently than annually,

6 (2) the furnishing of notices at least annually
7 to such persons and to the Secretary or his delegate,
8 in such form and at such time as the Secretary shall
9 prescribe,

10 (3) duties relating to administrative services to
11 such persons in the operation of their plans, and

12 (4) other duties that the Secretary considers
13 necessary to ensure that—

14 (A) the master and prototype, regional
15 prototype, and other preapproved plans of
16 adopting employers are timely amended to meet
17 the requirements of the Internal Revenue Code
18 of 1986 or of any rule or regulation of the Sec-
19 retary, and

20 (B) adopting employers receive timely noti-
21 fication of amendments and other actions taken
22 by sponsors with respect to their plans.

**Subtitle C—Nondiscrimination
Provisions**

**SEC. 221. DEFINITION OF HIGHLY COMPENSATED EM-
PLOYEES.**

(a) IN GENERAL.—Paragraph (1) of section 414(q) (defining highly compensated employee) is amended to read as follows:

“(1) IN GENERAL.—The term ‘highly compensated employee’ means any employee who—

“(A) was a 5-percent owner at any time during the year or the preceding year, or

“(B) had compensation for the preceding year from the employer in excess of \$50,000.

The Secretary shall adjust the \$50,000 amount under subparagraph (B) at the same time and in the same manner as under section 415(d).”

(b) SPECIAL RULE WHERE NO EMPLOYEES TREATED AS HIGHLY COMPENSATED.—Paragraph (2) of section 414(q) is amended to read as follows:

“(2) SPECIAL RULE IF NO EMPLOYEE DESCRIBED IN PARAGRAPH (1).—If no employee is treated as a highly compensated employee under paragraph (1), the highest paid officer for the year shall be treated as a highly compensated employee.

1 (c) TREATMENT OF FAMILY MEMBERS.—Paragraph
2 (6) of section 414(q) is hereby repealed.

3 (d) CONFORMING AMENDMENTS.—

4 (1) Paragraphs (4), (5), (8), and (12) of section
5 414(q) are hereby repealed.

6 (2)(A) Section 414(r) is amended by adding at
7 the end thereof the following new paragraph:

8 “(9) EXCLUDED EMPLOYEES.—For purposes of
9 this subsection, the following employees shall be ex-
10 cluded:

11 “(A) Employees who have not completed 6
12 months of service.

13 “(B) Employees who normally work less
14 than 17½ hours per week.

15 “(C) Employees who normally work not
16 more than 6 months during any year.

17 “(D) Employees who have not attained the
18 age of 21.

19 “(E) Except to the extent provided in reg-
20 ulations, employees who are included in a unit
21 of employees covered by an agreement which
22 the Secretary of Labor finds to be a collective
23 bargaining agreement between employee rep-
24 resentatives and the employer.

1 Except as provided by the Secretary, the employer
2 may elect to apply subparagraph (A), (B), (C), or
3 (D) by substituting a shorter period of service,
4 smaller number of hours or months, or lower age for
5 the period of service, number of hours or months, or
6 age (as the case may be) specified in such subpara-
7 graph.”

8 (B) Subparagraph (A) of section 414(r)(2) is
9 amended by striking “subsection (q)(8)” and insert-
10 ing “paragraph (9)”.

11 (3) Paragraph (17) of section 401(a) is amend-
12 ed by striking the last sentence.

13 (4) Subsection (l) of section 404 is amended by
14 striking the last sentence.

15 (5) Section 1114(c)(4) of the Tax Reform Act
16 of 1986 is amended by adding at the end the follow-
17 ing new sentence: “Any reference in this paragraph
18 to section 414(q) shall be treated as a reference to
19 such section as in effect before the Revenue Act of
20 1992.”

21 (e) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to years beginning after December
23 31, 1993.

1 **SEC. 222. MODIFICATION OF ADDITIONAL PARTICIPATION**
2 **REQUIREMENTS.**

3 (a) GENERAL RULE.—Section 401(a)(26)(A) (relat-
4 ing to additional participation requirements) is amended
5 to read as follows:

6 “(A) IN GENERAL.—In the case of a trust
7 which is a part of a defined benefit plan, such trust
8 shall not constitute a qualified trust under this sub-
9 section unless on each day of the plan year such
10 trust benefits at least the lesser of—

11 “(i) 50 employees of the employer, or

12 “(ii) the greater of—

13 “(I) 40 percent of all employees of the
14 employer, or

15 “(II) 2 employees (or if there is only
16 1 employee, such employee).”

17 (b) SEPARATE LINE OF BUSINESS TEST.—Section
18 401(a)(26)(G) (relating to separate line of business) is
19 amended by striking “paragraph (7)” and inserting “para-
20 graph (2)(A) or (7)”.

21 (c) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to years beginning after December
23 31, 1993.

1 **SEC. 223. NONDISCRIMINATION RULES FOR QUALIFIED**
2 **CASH OR DEFERRED ARRANGEMENTS AND**
3 **MATCHING CONTRIBUTIONS.**

4 (a) ALTERNATIVE METHODS OF SATISFYING SEC-
5 TION 401(k) NONDISCRIMINATION TESTS.—Section
6 401(k) (relating to cash or deferred arrangements) is
7 amended by adding at the end thereof the following new
8 paragraph:

9 “(11) ALTERNATIVE METHODS OF MEETING
10 NONDISCRIMINATION REQUIREMENTS.—

11 “(A) IN GENERAL.—A cash or deferred ar-
12 rangement shall be treated as meeting the re-
13 quirements of paragraph (3)(A)(ii) if such ar-
14 rangement—

15 “(i) meets the contribution require-
16 ments of subparagraph (B) or (C), and

17 “(ii) meets the notice requirements of
18 subparagraph (D).

19 “(B) MATCHING CONTRIBUTIONS.—

20 “(i) IN GENERAL.—The requirements
21 of this subparagraph are met if, under the
22 arrangement, the employer makes match-
23 ing contributions on behalf of each em-
24 ployee who is not a highly compensated
25 employee in an amount equal to—

1 “(I) 100 percent of the elective
2 contributions of the employee to the
3 extent such elective contributions do
4 not exceed 3 percent of the employee’s
5 compensation, and

6 “(II) 50 percent of the elective
7 contributions of the employee to the
8 extent that such elective contributions
9 exceed 3 percent but do not exceed 5
10 percent of the employee’s compensa-
11 tion.

12 “(ii) RATE FOR HIGHLY COM-
13 PENSATED EMPLOYEES.—The require-
14 ments of this subparagraph are not met if,
15 under the arrangement, the matching con-
16 tribution with respect to any elective con-
17 tribution of a highly compensated employee
18 at any level of compensation is greater
19 than that with respect to an employee who
20 is not a highly compensated employee.

21 “(iii) ALTERNATIVE PLAN DESIGNS.—
22 If the matching contribution with respect
23 to any elective contribution at any specific
24 level of compensation is not equal to the
25 percentage required under clause (i), an

1 arrangement shall not be treated as
2 failing to meet the requirements of
3 clause (i) if—

4 “(I) the level of an employer’s
5 matching contribution does not in-
6 crease as an employee’s elective con-
7 tributions increase, and

8 “(II) the aggregate amount of
9 matching contributions with respect to
10 elective contributions not in excess of
11 such level of compensation is at least
12 equal to the amount of matching con-
13 tributions which would be made if
14 matching contributions were made on
15 the basis of the percentages described
16 in clause (i).

17 “(C) NONELECTIVE CONTRIBUTIONS.—

18 The requirements of this subparagraph are met
19 if, under the arrangement, the employer is re-
20 quired, without regard to whether the employee
21 makes an elective contribution or employee con-
22 tribution, to make a contribution to a defined
23 contribution plan on behalf of each employee
24 who is not a highly compensated employee and
25 who is eligible to participate in the arrangement

1 in an amount equal to at least 3 percent of the
2 employee's compensation.

3 “(D) NOTICE REQUIREMENT.—An ar-
4 rangement meets the requirements of this para-
5 graph if, under the arrangement, each employee
6 eligible to participate is, within a reasonable pe-
7 riod before any year, given written notice of the
8 employee's rights and obligations under the ar-
9 rangement which—

10 “(i) is sufficiently accurate and com-
11 prehensive to appraise the employee of
12 such rights and obligations, and

13 “(ii) is written in a manner calculated
14 to be understood by the average employee
15 eligible to participate.

16 “(E) OTHER REQUIREMENTS.—

17 “(i) WITHDRAWAL AND VESTING RE-
18 STRICTIONS.—An arrangement shall not be
19 treated as meeting the requirements of
20 subparagraph (B) or (C) unless the re-
21 quirements of subparagraphs (B) and (C)
22 of paragraph (2) are met with respect to
23 all employer contributions (including
24 matching contributions).

1 “(ii) SOCIAL SECURITY AND SIMILAR
2 CONTRIBUTIONS NOT TAKEN INTO AC-
3 COUNT.—An arrangement shall not be
4 treated as meeting the requirements of
5 subparagraph (B) or (C) unless such re-
6 quirements are met without regard to sub-
7 section (l), and, for purposes of subsection
8 (l), employer contributions under subpara-
9 graph (B) or (C) shall not be taken into
10 account.

11 “(F) OTHER PLANS.—An arrangement
12 shall be treated as meeting the requirements
13 under subparagraph (A)(i) if any other plan
14 maintained by the employer meets such require-
15 ments with respect to employees eligible under
16 the arrangement.”

17 (b) ALTERNATIVE METHODS OF SATISFYING SEC-
18 TION 401(m) NONDISCRIMINATION TESTS.—Section
19 401(m) (relating to nondiscrimination test for matching
20 contributions and employee contributions) is amended by
21 redesignating paragraph (10) as paragraph (11) and by
22 adding after paragraph (9) the following new paragraph:

23 “(10) ALTERNATIVE METHOD OF SATISFYING
24 TESTS.—

1 “(A) IN GENERAL.—A defined contribution
2 plan shall be treated as meeting the require-
3 ments of paragraph (2) with respect to match-
4 ing contributions if the plan—

5 “(i) meets the contribution require-
6 ments of subparagraph (B) or (C) of sub-
7 section (k)(11),

8 “(ii) meets the notice requirements of
9 subsection (k)(11)(D), and

10 “(iii) meets the requirements of sub-
11 paragraph (B).

12 “(B) LIMITATION ON MATCHING CON-
13 TRIBUTIONS.—The requirements of this sub-
14 paragraph are met if—

15 “(i) matching contributions on behalf
16 of any employee may not be made with
17 respect to an employee’s contributions or
18 elective deferrals in excess of 6 percent of
19 the employee’s compensation,

20 “(ii) the level of an employer’s match-
21 ing contribution does not increase as an
22 employee’s contributions or elective defer-
23 rals increase, and

24 “(iii) the matching contribution with
25 respect to any highly compensated em-

1 ployee at a specific level of compensation is
2 not greater than that with respect to an
3 employee who is not a highly compensated
4 employee.”

5 (c) YEAR FOR COMPUTING NONHIGHLY COM-
6 PENSATED EMPLOYEE PERCENTAGE.—

7 (1) CASH OR DEFERRED ARRANGEMENTS.—

8 Clause (ii) of section 401(k)(3)(A) is amended—

9 (A) by striking “such year” and inserting
10 “the plan year”, and

11 (B) by striking “for such plan year” and
12 inserting “the preceding plan year”.

13 (2) MATCHING AND EMPLOYEE CONTRIBU-
14 TIONS.—Section 401(m)(2)(A) is amended—

15 (A) by inserting “for such plan year” after
16 “highly compensated employee”, and

17 (B) by inserting “for the preceding plan
18 year” after “eligible employees” each place it
19 appears in clause (i) and clause (ii).

20 (d) SPECIAL RULE FOR DETERMINING AVERAGE DE-
21 FERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

22 (1) Paragraph (3) of section 401(k) is amended
23 by adding at the end thereof the following new sub-
24 paragraph:

1 “(E) For purposes of this paragraph, in
2 the case of the first plan year of any plan, the
3 amount taken into account as the actual defer-
4 ral percentage of nonhighly compensated em-
5 ployees for the preceding plan year shall be—

6 “(i) 3 percent, or

7 “(ii) if the employer makes an election
8 under this subclause, the actual deferral
9 percentage of nonhighly compensated em-
10 ployees determined for such first plan
11 year.”

12 (2) Paragraph (3) of section 401(m) is amend-
13 ed by adding at the end thereof the following:
14 “Rules similar to the rules of subsection (k)(3)(E)
15 shall apply for purposes of this subsection.”

16 (e) DISTRIBUTION OF EXCESS CONTRIBUTIONS.—

17 (1) Subparagraph (C) of section 401(k)(8) (re-
18 lating to arrangement not disqualified if excess con-
19 tributions distributed) is amended by striking “on
20 the basis of the respective portions of the excess con-
21 tributions attributable to each of such employees”
22 and inserting “on the basis of the amount of con-
23 tributions by, or on behalf of, each of such employ-
24 ees”.

1 (2) Subparagraph (C) of section 401(m)(6) (re-
2 lating to method of distributing excess aggregate
3 contributions) is amended by striking “on the basis
4 of the respective portions of such amounts attrib-
5 utable to each of such employees” and inserting “on
6 the basis of the amount of contributions on behalf
7 of, or by, each such employee”.

8 (f) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to years beginning after December
10 31, 1993.

11 **Subtitle D—Miscellaneous** 12 **Simplification**

13 **SEC. 231. TREATMENT OF LEASED EMPLOYEES.**

14 (a) GENERAL RULE.—Subparagraph (C) of section
15 414(n)(2) (defining leased employee) is amended to read
16 as follows:

17 “(C) such services are performed under
18 significant direction or control by the recipi-
19 ent.”

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) shall apply to years beginning after Decem-
22 ber 31, 1993, but shall not apply to any relationship deter-
23 mined under an Internal Revenue Service ruling issued be-
24 fore the date of the enactment of this Act pursuant to
25 section 414(n)(2)(C) of the Internal Revenue Code of

1 1986 (as in effect on the day before such date) not to
2 involve a leased employee.

3 **SEC. 232. MODIFICATIONS OF COST-OF-LIVING ADJUST-**
4 **MENTS.**

5 (a) IN GENERAL.—Section 415(d) (relating to cost-
6 of-living adjustments) is amended to read as follows:

7 “(d) COST-OF-LIVING ADJUSTMENTS.—

8 “(1) IN GENERAL.—The Secretary shall adjust
9 annually—

10 “(A) the \$90,000 amount in subsection
11 (b)(1)(A), and

12 “(B) in the case of a participant who sepa-
13 rated from service, the amount taken into ac-
14 count under subsection (b)(1)(B),
15 for increases in the cost-of-living in accordance with
16 regulations prescribed by the Secretary.

17 “(2) METHOD.—

18 “(A) IN GENERAL.—The regulations pre-
19 scribed under paragraph (1) shall provide for
20 adjustment procedures which are similar to the
21 procedures used to adjust benefit amounts
22 under section 215(i)(2)(A) of the Social Secu-
23 rity Act.

1 “(B) PERIODS FOR ADJUSTMENT OF DOL-
2 LAR AMOUNT.—For purposes of paragraph
3 (1)(A)—

4 “(i) IN GENERAL.—The adjustment
5 with respect to any calendar year shall be
6 based on the increase in the applicable
7 index as of the close of the calendar quar-
8 ter ending September 30 of the preceding
9 calendar year over such index as of the
10 close of the base period.

11 “(ii) BASE PERIOD.—For purposes of
12 clause (i), the base period is the calendar
13 quarter beginning October 1, 1986.

14 “(C) BASE PERIOD FOR SEPARATIONS.—
15 For purposes of paragraph (1)(B), the base pe-
16 riod is the last calendar quarter of the calendar
17 year preceding the calendar year in which the
18 participant separated from service.

19 “(3) ROUNDING.—Any amount determined
20 under paragraph (1) (or by reference to this sub-
21 section) shall be rounded to the nearest \$1,000, ex-
22 cept that the amounts under sections 402(g)(1) and
23 408(k)(2)(C) shall be rounded to the nearest \$100.”

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section apply to adjustments with respect to calendar
3 years beginning after December 31, 1993.

4 **SEC. 233. PLANS COVERING SELF-EMPLOYED INDIVID-**
5 **UALS.**

6 (a) AGGREGATION RULES.—Section 401(d) (relating
7 to additional requirements for qualification of trusts and
8 plans benefiting owner-employees) is amended to read as
9 follows:

10 “(d) CONTRIBUTION LIMIT ON OWNER-EMPLOY-
11 EES.—A trust forming part of a pension or profit-sharing
12 plan which provides contributions or benefits for employ-
13 ees some or all of whom are owner-employees shall con-
14 stitute a qualified trust under this section only if, in addi-
15 tion to meeting the requirements of subsection (a), the
16 plan provides that contributions on behalf of any owner-
17 employee may be made only with respect to the earned
18 income of such owner-employee which is derived from the
19 trade or business with respect to which such plan is estab-
20 lished.”

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to years beginning after December
23 31, 1993.

1 **SEC. 234. ELIMINATION OF SPECIAL VESTING RULE FOR**
2 **MULTIEMPLOYER PLANS.**

3 (a) IN GENERAL.—Paragraph (2) of section 411(a)
4 (relating to minimum vesting standards) is amended—

5 (1) by striking “subparagraph (A), (B), or (C)”

6 and inserting “subparagraph (A) or (B)”; and

7 (2) by striking subparagraph (C).

8 (b) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to plan years beginning on or after
10 the earlier of—

11 (1) the later of—

12 (A) January 1, 1994, or

13 (B) the date on which the last of the col-
14 lective bargaining agreements pursuant to
15 which the plan is maintained terminates (deter-
16 mined without regard to any extension thereof
17 after the date of the enactment of this Act), or

18 (2) January 1, 1996.

19 Such amendments shall not apply to any individual who
20 does not have more than 1 hour of service under the plan
21 on or after the 1st day of the 1st plan year to which such
22 amendments apply.

1 **SEC. 235. FULL-FUNDING LIMITATION OF MULTIEMPLOYER PLANS.**
 2

3 (a) FULL-FUNDING LIMITATION.—Section
 4 412(c)(7)(C) (relating to full-funding limitation) is
 5 amended—

6 (1) by inserting “or in the case of a multiem-
 7 ployer plan,” after “paragraph (6)(B),”, and

8 (2) by inserting “AND MULTIEMPLOYER PLANS”
 9 after “PARAGRAPH (6)(B)” in the heading thereof.

10 (b) VALUATION.—Section 412(c)(9) is amended—

11 (1) by inserting “(3 years in the case of a mul-
 12 tiemployer plan)” after “year”, and

13 (2) by striking “ANNUAL VALUATION” in the
 14 heading and inserting “VALUATION”.

15 (c) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to years beginning after December
 17 31, 1993.

18 **SEC. 236. ALTERNATIVE FULL-FUNDING LIMITATION.**

19 (a) IN GENERAL.—Subsection (c) of section 412 (re-
 20 lating to minimum funding standards) is amended by re-
 21 designating paragraphs (8) through (11) as paragraphs
 22 (9) through (12), respectively, and by adding after para-
 23 graph (7) the following new paragraph:

24 “(8) ALTERNATIVE FULL-FUNDING LIMITA-
 25 TION.—

1 “(A) GENERAL RULE.—An employer may
2 elect the full-funding limitation under this para-
3 graph with respect to any defined benefit plan
4 of the employer in lieu of the full-funding limi-
5 tation determined under paragraph (7) if the
6 requirements of subparagraphs (C) and (D) are
7 met.

8 “(B) ALTERNATIVE FULL-FUNDING LIM-
9 TATION.—The full-funding limitation under this
10 paragraph is the full-funding limitation deter-
11 mined under paragraph (7) without regard to
12 subparagraph (A)(i)(I) thereof.

13 “(C) REQUIREMENTS RELATING TO PLAN
14 ELIGIBILITY.—

15 “(i) IN GENERAL.—The requirements
16 of this subparagraph are met with respect
17 to a defined benefit plan if—

18 “(I) as of the 1st day of the elec-
19 tion period, the average accrued liabil-
20 ity of participants accruing benefits
21 under the plan for the 5 immediately
22 preceding plan years is at least 80
23 percent of the plan’s total accrued li-
24 ability,

1 “(II) the plan is not a top-heavy
2 plan (as defined in section 416(g)) for
3 the 1st plan year of the election pe-
4 riod or either of the 2 preceding plan
5 years, and

6 “(III) each defined benefit plan
7 of the employer (and each defined
8 benefit plan of each employer who is
9 a member of any controlled group
10 which includes such employer) meets
11 the requirements of subclauses (I) and
12 (II).

13 “(ii) FAILURE TO CONTINUE TO MEET
14 REQUIREMENTS.—

15 “(I) If any plan fails to meet the
16 requirement of clause (i)(I) for any
17 plan year during an election period,
18 the benefits of the election under this
19 paragraph shall be phased out under
20 regulations prescribed by the Sec-
21 retary.

22 “(II) If any plan fails to meet
23 the requirement of clause (i)(II) for
24 any plan year during an election pe-
25 riod, such plan shall be treated as not

1 meeting the requirements of clause (i)
2 for the remainder of the election pe-
3 riod.

4 If there is a failure described in subclause
5 (I) or (II) with respect to any plan, such
6 plan (and each plan described in clause
7 (i)(III) with respect to such plan) shall be
8 treated as not meeting the requirements of
9 clause (i) for any of the 10 plan years be-
10 ginning after the election period.

11 “(D) REQUIREMENTS RELATING TO ELEC-
12 TION.—

13 “(i) IN GENERAL.—The requirements
14 of this subparagraph are met with respect
15 to an election if—

16 “(I) FILING DATE.—Notice of
17 such election is filed with the Sec-
18 retary (in such form and manner and
19 containing such information as the
20 Secretary may provide) by January 1
21 of any calendar year, and is effective
22 as of the 1st day of the election period
23 beginning on or after January 1 of
24 the following calendar year.

1 “(II) CONSISTENT ELECTION.—

2 Such an election is made for all de-
3 fined benefit plans maintained by the
4 employer or by any member of a con-
5 trolled group which includes the em-
6 ployer.

7 “(ii) TRANSITION PERIOD.—In the
8 case of any election period beginning on or
9 after July 1, 1993, and before January 1,
10 1994, the requirements of clause (i) shall
11 not apply and the requirements of this
12 subparagraph are met with respect to such
13 election period if—

14 “(I) FILING DATE.—Notice of
15 election is filed with the Secretary by
16 October 1, 1993.

17 “(II) INFORMATION.—The notice
18 sets forth the name and tax identifica-
19 tion number of the plan sponsor, the
20 names and tax identification numbers
21 of the plans to which the election ap-
22 plies, the limitation under paragraph
23 (7) (determined with and without re-
24 gard to this paragraph), and a signed
25 certification by an officer of the em-

1 ployer stating that the requirements
2 of this paragraph have been met.

3 “(iii) REVENUE OFFSET PROCE-
4 DURES.—The Secretary shall, by January
5 1, 1994, notify defined benefit plans that
6 have not made an election under this para-
7 graph for the transition period described in
8 clause (ii) of the adjustment required by
9 subparagraph (H). The revenue offset for
10 the transition period shall apply to plan
11 years beginning on or after July 1, 1993,
12 and before January 1, 1994.

13 “(iv) EXCESS CONTRIBUTIONS MADE
14 BY NON-ELECTING PLANS.—To the extent
15 a defined benefit plan sponsor makes a
16 contribution to a defined benefit plan with
17 respect to the transition period described
18 in clause (ii) which exceeds the limitation
19 of paragraph (7), as adjusted by the Sec-
20 retary for the transition period, the spon-
21 sor shall offset the excess contribution
22 against allowable contributions to the plan
23 in subsequent quarters in the taxable year
24 of the sponsor. If no subsequent contribu-
25 tions may be made for the taxable year,

1 the trustee of the defined benefit plan shall
2 return the excess contribution to the spon-
3 sor in that taxable year or the following
4 taxable year. Notwithstanding any other
5 provision of this title, no deduction shall be
6 allowed for any contribution made in ex-
7 cess of the limitation of paragraph (7), as
8 adjusted by the Secretary for the transi-
9 tion period, and no penalty shall apply
10 with respect to contributions made in ex-
11 cess of such limitation to the extent such
12 excess contributions are either used to off-
13 set subsequent contributions, or returned
14 to the plan sponsor, as provided in this
15 clause.

16 “(E) TERM OF ELECTION.—Any election
17 made under this paragraph shall apply for the
18 election period.

19 “(F) OTHER CONSEQUENCES OF ELEC-
20 TION.—

21 “(i) NO FUNDING WAIVERS.—In the
22 case of a plan with respect to which an
23 election is made under this paragraph, no
24 waiver may be granted under subsection
25 (d) for any plan year beginning after the

1 date the election was made and ending at
2 the close of the election period with respect
3 thereto.

4 “(ii) FAILURE TO MAKE SUCCESSIVE
5 ELECTIONS.—If an election is made under
6 this paragraph with respect to any plan
7 and such an election does not apply for
8 each successive plan year of such plan,
9 such plan shall be treated as not meeting
10 the requirements of subparagraph (C) for
11 the period of 10 plan years beginning after
12 the close of the last election period for
13 such plan.

14 “(G) DEFINITIONS.—For purposes of this
15 paragraph—

16 “(i) ELECTION PERIOD.—The term
17 ‘election period’ means the period of 5 con-
18 secutive plan years beginning with the 1st
19 plan year for which the election is made.

20 “(ii) CONTROLLED GROUP.—The term
21 ‘controlled group’ means all persons who
22 are treated as a single employer under sub-
23 section (b), (c), (m), or (o) of section 414.

1 “(H) PROCEDURES IF ALTERNATIVE
2 FUNDING LIMITATION REDUCES NET FEDERAL
3 REVENUES.—

4 “(i) IN GENERAL.—At least once with
5 respect to each fiscal year, the Secretary
6 shall estimate whether the application of
7 this paragraph will result in a net reduc-
8 tion in Federal revenues for such fiscal
9 year.

10 “(ii) ADJUSTMENT OF FULL-FUNDING
11 LIMITATION IF REVENUE SHORTFALL.—If
12 the Secretary estimates that the applica-
13 tion of this paragraph will result in a more
14 than insubstantial net reduction in Federal
15 revenues for any fiscal year, the Sec-
16 retary—

17 “(I) shall make the adjustment
18 described in clause (iii), and

19 “(II) to the extent such adjust-
20 ment is not sufficient to reduce such
21 reduction to an insubstantial amount,
22 shall make the adjustment described
23 in clause (iv).

24 Such adjustments shall apply only to de-
25 fined benefit plans with respect to which

1 an election under this paragraph is not in
2 effect.

3 “(iii) REDUCTION IN LIMITATION
4 BASED ON 150 PERCENT OF CURRENT LI-
5 ABILITY.—The adjustment described in
6 this clause is an adjustment which sub-
7 stitutes a percentage (not lower than 140
8 percent) for the percentage described in
9 paragraph (7)(A)(i)(I) determined by re-
10 ducing the percentage of current liability
11 taken into account with respect to partici-
12 pants who are not accruing benefits under
13 the plan.

14 “(iv) REDUCTION IN LIMITATION
15 BASED ON ACCRUED LIABILITY.—The ad-
16 justment described in this clause is an ad-
17 justment which reduces the percentage of
18 accrued liability taken into account under
19 paragraph (7)(A)(i)(II). In no event may
20 the amount of accrued liability taken into
21 account under such paragraph after the
22 adjustment be less than 140 percent of
23 current liability.”

24 (b) ALTERATION OF DISCRETIONARY REGULATORY
25 AUTHORITY.—Subparagraph (D) of section 412(c)(7) is

1 amended by striking “provide—” and all that follows
2 through “(iii) for” and inserting “provide for”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on January 1, 1993.

5 **SEC. 237. DISTRIBUTIONS UNDER RURAL COOPERATIVE**
6 **PLANS.**

7 (a) DISTRIBUTIONS AFTER CERTAIN AGE.—Section
8 401(k)(7) is amended by adding at the end thereof the
9 following new subparagraph:

10 “(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a
11 qualified cash or deferred arrangement shall not be
12 treated as violating the requirements of section
13 401(a) merely by reason of a distribution to a par-
14 ticipant after attainment of age 59½.”

15 (b) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to distributions after the date of
17 the enactment of this Act.

18 **SEC. 238. TREATMENT OF GOVERNMENTAL PLANS UNDER**
19 **SECTION 415.**

20 (a) DEFINITION OF COMPENSATION.—Subsection (k)
21 of section 415 (regarding limitations on benefits and con-
22 tributions under qualified plans) is amended by adding im-
23 mediately after paragraph (2) thereof the following new
24 paragraph:
25

1 “(3) DEFINITION OF COMPENSATION FOR GOV-
 2 ERNMENTAL PLANS.—For purposes of this section,
 3 in the case of a governmental plan (as defined in
 4 section 414(d)), the term ‘compensation’ includes, in
 5 addition to the amounts described in subsection
 6 (c)(3)—

7 “(A) any elective deferral (as defined in
 8 section 402(g)(3)), and

9 “(B) any amount which is contributed by
 10 the employer at the election of the employee
 11 and which is not includible in the gross income
 12 of an employee under section 125 or 457.”

13 (b) COMPENSATION LIMIT.—Subsection (b) of sec-
 14 tion 415 is amended by adding immediately after para-
 15 graph (10) the following new paragraph:

16 “(11) SPECIAL LIMITATION RULE FOR GOVERN-
 17 MENTAL PLANS.—In the case of a governmental
 18 plan (as defined in section 414(d)), subparagraph
 19 (B) of paragraph (1) shall not apply.”

20 (c) TREATMENT OF CERTAIN EXCESS BENEFIT
 21 PLANS.—

22 (1) IN GENERAL.—Section 415 is amended by
 23 adding at the end thereof the following new sub-
 24 section:

1 “(m) TREATMENT OF QUALIFIED GOVERNMENTAL
2 EXCESS BENEFIT ARRANGEMENTS.—

3 “(1) GOVERNMENTAL PLAN NOT AFFECTED.—

4 In determining whether a governmental plan (as de-
5 fined in section 414(d)) meets the requirements of
6 this section, benefits provided under a qualified gov-
7 ernmental excess benefit arrangement shall not be
8 taken into account. Income accruing to a govern-
9 mental plan (or to a trust that is maintained solely
10 for the purpose of providing benefits under a quali-
11 fied governmental excess benefit arrangement) in re-
12 spect of a qualified governmental excess benefit ar-
13 rangement shall constitute income derived from the
14 exercise of an essential governmental function upon
15 which such governmental plan (or trust) shall be ex-
16 empt from tax under section 115.

17 “(2) TAXATION OF PARTICIPANT.—For pur-
18 poses of this chapter—

19 “(A) the taxable year or years for which
20 amounts in respect of a qualified governmental
21 excess benefit arrangement are includible in
22 gross income by a participant, and

23 “(B) the treatment of such amounts when
24 so includible by the participant,

1 shall be determined as if such qualified govern-
2 mental excess benefit arrangement were treated as a
3 plan for the deferral of compensation which is main-
4 tained by a corporation not exempt from tax under
5 this chapter and which does not meet the require-
6 ments for qualification under section 401.

7 “(3) QUALIFIED GOVERNMENTAL EXCESS BEN-
8 EFIT ARRANGEMENT.—For purposes of this sub-
9 section, the term ‘qualified governmental excess ben-
10 efit arrangement’ means a portion of a governmental
11 plan if—

12 “(A) such portion is maintained solely for
13 the purpose of providing to participants in the
14 plan that part of the participant’s annual bene-
15 fit otherwise payable under the terms of the
16 plan that exceeds the limitations on benefits im-
17 posed by this section,

18 “(B) under such portion no election is pro-
19 vided at any time to the participant (directly or
20 indirectly) to defer compensation, and

21 “(C) benefits described in subparagraph
22 (A) are not paid from a trust forming a part
23 of such governmental plan unless such trust is
24 maintained solely for the purpose of providing
25 such benefits.”

1 (2) COORDINATION WITH SECTION 457.—Sub-
2 section (e) of section 457 is amended by adding at
3 the end thereof the following new paragraph:

4 “(15) TREATMENT OF QUALIFIED GOVERN-
5 MENTAL EXCESS BENEFIT ARRANGEMENTS.—Sub-
6 sections (b)(2) and (c)(1) shall not apply to any
7 qualified governmental excess benefit arrangement
8 (as defined in section 415(m)(3)), and benefits pro-
9 vided under such an arrangement shall not be taken
10 into account in determining whether any other plan
11 is an eligible deferred compensation plan.”

12 (3) CONFORMING AMENDMENT.—Paragraph (2)
13 of section 457(f) is amended by striking the word
14 “and” at the end of subparagraph (C), by striking
15 the period after subparagraph (D) and inserting the
16 words “, and”, and by inserting immediately there-
17 after the following new subparagraph:

18 “(E) a qualified governmental excess bene-
19 fit arrangement described in section 415(m).”

20 (d) EXEMPTION FOR SURVIVOR AND DISABILITY
21 BENEFITS.—Paragraph (2) of section 415(b) is amended
22 by adding at the end thereof the following new subpara-
23 graph:

24 “(I) EXEMPTION FOR SURVIVOR AND DIS-
25 ABILITY BENEFITS PROVIDED UNDER GOVERN-

1 MENTAL PLANS.—Subparagraph (B) of para-
2 graph (1), subparagraph (C) of this paragraph,
3 and paragraph (5) shall not apply to—

4 “(i) income received from a govern-
5 mental plan (as defined in section 414(d))
6 as a pension, annuity, or similar allowance
7 as the result of the recipient becoming dis-
8 abled by reason of personal injuries or
9 sickness, or

10 “(ii) amounts received from a govern-
11 mental plan by the beneficiaries, survivors,
12 or the estate of an employee as the result
13 of the death of the employee.”

14 (e) REVOCATION OF GRANDFATHER ELECTION.—
15 Subparagraph (C) of section 415(b)(10) is amended by
16 adding at the end thereof the following new sentence: “An
17 election made pursuant to the preceding sentence to have
18 the provisions of this paragraph applied to the plan may
19 be revoked not later than the last day of the 3rd plan year
20 beginning after the date of enactment with respect to all
21 plan years as to which such election has been applicable
22 and all subsequent plan years; provided that any amount
23 paid by the plan in a taxable year ending after revocation
24 of such election in respect of benefits attributable to a tax-
25 able year during which such election was in effect shall

1 be includible in income by the recipient in accordance with
2 the rules of this chapter in the taxable year in which such
3 amount is received (except that such amount shall be
4 treated as received for purposes of the limitations imposed
5 by this section in the earlier taxable year or years to which
6 such amount is attributable).”

7 (f) EFFECTIVE DATE.—

8 (1) IN GENERAL.—The amendments made by
9 subsections (a), (b), (c), and (d) shall apply to tax-
10 able years beginning on or after the date of the en-
11 actment of this Act. The amendments made by sub-
12 section (e) shall apply with respect to election rev-
13 ocations adopted after the date of the enactment of
14 this Act.

15 (2) TREATMENT FOR YEARS BEGINNING BE-
16 FORE DATE OF ENACTMENT.—In the case of a gov-
17 ernmental plan (as defined in section 414(d) of the
18 Internal Revenue Code of 1986), such plan shall be
19 treated as satisfying the requirements of section 415
20 of such Code for all taxable years beginning before
21 the date of the enactment of this Act.

22 **SEC. 239. UNIFORM RETIREMENT AGE.**

23 (a) DISCRIMINATION TESTING.—Paragraph (5) of
24 section 401(a) (relating to special rules relating to non-

1 discrimination requirements) is amended by adding at the
 2 end thereof the following new subparagraph:

3 “(F) SOCIAL SECURITY RETIREMENT
 4 AGE.—For purposes of testing for discrimina-
 5 tion under paragraph (4)—

6 “(i) the social security retirement age
 7 (as defined in section 415(b)(8)) shall be
 8 treated as a uniform retirement age, and

9 “(ii) subsidized early retirement bene-
 10 fits and joint and survivor annuities shall
 11 not be treated as being unavailable to em-
 12 ployees on the same terms merely because
 13 such benefits or annuities are based in
 14 whole or in part on an employee’s social
 15 security retirement age (as so defined).”

16 (b) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply to years beginning after December
 18 31, 1993.

19 **SEC. 240. UNIFORM PENALTY PROVISIONS TO APPLY TO**
 20 **CERTAIN PENSION REPORTING REQUIRE-**
 21 **MENTS.**

22 (a) IN GENERAL.—

23 (1) Paragraph (1) of section 6724(d) is amend-
 24 ed by striking “and” at the end of subparagraph
 25 (A), by striking the period at the end of subpara-

1 graph (B) and inserting “, and”, and by inserting
2 after subparagraph (B) the following new subpara-
3 graph:

4 “(C) any statement of the amount of pay-
5 ments to another person required to be made to
6 the Secretary under—

7 “(i) section 408(i) (relating to reports
8 with respect to individual retirement ac-
9 counts or annuities), or

10 “(ii) section 6047(d) (relating to re-
11 ports by employers, plan administrators,
12 etc.).”

13 (2) Paragraph (2) of section 6724(d) is amend-
14 ed by striking “or” at the end of subparagraph (R),
15 by striking the period at the end of subparagraph
16 (S) and inserting a comma, and by inserting after
17 subparagraph (S) the following new subparagraphs:

18 “(T) section 408(i) (relating to reports
19 with respect to individual retirement plans) to
20 any person other than the Secretary with re-
21 spect to the amount of payments made to such
22 person, or

23 “(U) section 6047(d) (relating to reports
24 by plan administrators) to any person other

1 than the Secretary with respect to the amount
2 of payments made to such person.”

3 (b) MODIFICATION OF REPORTABLE DESIGNATED
4 DISTRIBUTIONS.—

5 (1) SECTION 408.—Subsection (i) of section 408
6 (relating to individual retirement account reports) is
7 amended by inserting “aggregating \$10 or more in
8 any calendar year” after “distributions”.

9 (2) SECTION 6047.—Paragraph (1) of section
10 6047(d) (relating to reports by employers, plan ad-
11 ministrators, etc.) is amended by adding at the end
12 thereof the following new sentence: “No return or
13 report may be required under the preceding sentence
14 with respect to distributions to any person during
15 any year unless such distributions aggregate \$10 or
16 more.”

17 (c) QUALIFYING ROLLOVER DISTRIBUTIONS.—Sec-
18 tion 6652(i) is amended—

19 (1) by striking “the \$10” and inserting
20 “\$100”, and

21 (2) by striking “\$5,000” and inserting
22 “\$50,000”.

23 (d) CONFORMING AMENDMENTS.—

24 (1) Paragraph (1) of section 6047(f) is amend-
25 ed to read as follows:

1 “(1) For provisions relating to penalties for failures
2 to file returns and reports required under this section, see
3 sections 6652(e), 6721, and 6722.”

4 (2) Subsection (e) of section 6652 is amended
5 by adding at the end thereof the following new sen-
6 tence: “This subsection shall not apply to any return
7 or statement which is an information return de-
8 scribed in section 6724(d)(1)(C)(ii) or a payee state-
9 ment described in section 6724(d)(2)(U).”

10 (3) Subsection (a) of section 6693 is amended
11 by adding at the end thereof the following new sen-
12 tence: “This subsection shall not apply to any report
13 which is an information return described in section
14 6724(d)(1)(C)(i) or a payee statement described in
15 section 6724(d)(2)(T).”

16 (e) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to returns, reports, and other
18 statements the due date for which (determined without re-
19 gard to extensions) is after December 31, 1993.

20 **SEC. 241. CONTRIBUTIONS ON BEHALF OF DISABLED EM-**
21 **PLOYEES.**

22 (a) ALL DISABLED PARTICIPANTS RECEIVING CON-
23 TRIBUTIONS.—Section 415(c)(3)(C) is amended by adding
24 at the end thereof the following: “If a defined contribution
25 plan provides for the continuation of contributions on be-

1 half of all participants described in clause (i) for a fixed
2 or determinable period, this subparagraph shall be applied
3 without regard to clauses (ii) and (iii).”

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to years beginning after December
6 31, 1993.

7 **SEC. 242. AFFILIATED EMPLOYERS.**

8 (a) IN GENERAL.—For purposes of Treasury Regula-
9 tions section 1.501(c)(9)-2(a)(1), a group of employers
10 shall be deemed to be affiliated if they are substantially
11 all section 501(c)(12) organizations which perform serv-
12 ices (or with respect to which their members perform serv-
13 ices) which are the same or are directly related to each
14 other.

15 (b) SECTION 501(c)(12) ORGANIZATION.—For pur-
16 poses of this section, the term “section 501(c)(12) organi-
17 zation” means—

18 (1) any organization described in section
19 501(c)(12) of the Internal Revenue Code of 1986,

20 (2) any organization providing a service which
21 is the same as a service which is (or could be) pro-
22 vided by an organization described in paragraph (1),

23 (3) any organization described in paragraph (4)
24 or (6) of section 501(c) of such Code, but only if at
25 least 80 percent of the members of the organization

1 are organizations described in paragraph (1) or (2),
2 and

3 (4) any organization which is a national asso-
4 ciation of organizations described in paragraph (1),
5 (2), or (3).

6 An organization described in paragraph (2) (but not in
7 paragraph (1)) shall not be treated as a section 501(c)(12)
8 organization with respect to a voluntary employees' bene-
9 ficiary association unless a substantial number of employ-
10 ers maintaining such association are described in para-
11 graph (1).

12 (c) EFFECTIVE DATE.—The provisions of this section
13 shall apply to years beginning after December 31, 1993.

14 **SEC. 243. SPECIAL RULES FOR PLANS COVERING PILOTS.**

15 (a) GENERAL RULE.—

16 (1) Subparagraph (B) of section 410(b)(3) is
17 amended to read as follows:

18 “(B) in the case of a plan established or
19 maintained by one or more employers to provide
20 contributions or benefits for air pilots employed
21 by one or more common carriers engaged in
22 interstate or foreign commerce or air pilots em-
23 ployed by carriers transporting mail for or
24 under contract with the United States Govern-
25 ment, all employees who are not air pilots.”

1 (2) Paragraph (3) of section 410(b) is amended
 2 by striking the last sentence and inserting the fol-
 3 lowing new sentence: “Subparagraph (B) shall not
 4 apply in the case of a plan which provides contribu-
 5 tions or benefits for employees who are not air pilots
 6 or for air pilots whose principal duties are not cus-
 7 tomarily performed aboard aircraft in flight.”

8 (b) EFFECTIVE DATE.—The amendments made by
 9 subsection (a) shall apply to years beginning after Decem-
 10 ber 31, 1993.

11 **SEC. 244. TREATMENT OF DEFERRED COMPENSATION**
 12 **PLANS OF STATE AND LOCAL GOVERNMENTS**
 13 **AND TAX-EXEMPT ORGANIZATIONS.**

14 (a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—
 15 Paragraph (9) of section 457(e) (relating to other defini-
 16 tions and special rules) is amended to read as follows:

17 “(9) BENEFITS NOT TREATED AS MADE AVAIL-
 18 ABLE BY REASON OF CERTAIN ELECTIONS, ETC.—

19 “(A) TOTAL AMOUNT PAYABLE IS \$3,500
 20 OR LESS.—The total amount payable to a par-
 21 ticipant under the plan shall not be treated as
 22 made available merely because the participant
 23 may elect to receive such amount (or the plan
 24 may distribute such amount without the partici-
 25 pant’s consent) if—

1 “(i) such amount does not exceed
2 \$3,500, and

3 “(ii) such amount may be distributed
4 only if—

5 “(I) no amount has been deferred
6 under the plan with respect to such
7 participant during the 2-year period
8 ending on the date of the distribution,
9 and

10 “(II) there has been no prior dis-
11 tribution under the plan to such par-
12 ticipant to which this subparagraph
13 applied.

14 A plan shall not be treated as failing to
15 meet the distribution requirements of sub-
16 section (d) by reason of a distribution to which
17 this subparagraph applies.

18 “(B) ELECTION TO DEFER COMMENCE-
19 MENT OF DISTRIBUTIONS.—The total amount
20 payable to a participant under the plan shall
21 not be treated as made available merely because
22 the participant may elect to defer commence-
23 ment of distributions under the plan if—

24 “(i) such election is made after
25 amounts may be available under the plan

1 in accordance with subsection (d)(1)(A)
2 and before commencement of such dis-
3 tributions, and

4 “(ii) the participant may make only 1
5 such election.”

6 (b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DE-
7 FERRAL AMOUNT.—Subsection (e) of section 457 is
8 amended by adding at the end thereof the following new
9 paragraph:

10 “(14) COST-OF-LIVING ADJUSTMENT OF MAXI-
11 MUM DEFERRAL AMOUNT.—The Secretary shall ad-
12 just the \$7,500 amount specified in subsections
13 (b)(2) and (c)(1) at the same time and in the same
14 manner as under section 415(d), except that the
15 base year in applying such section for purposes of
16 this paragraph shall be 1993.”

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 the date of the enactment of this Act.

20 **SEC. 245. TREATMENT OF EMPLOYER REVERSIONS RE-**
21 **QUIRED BY CONTRACT TO BE PAID TO THE**
22 **UNITED STATES.**

23 (a) IN GENERAL.—Subparagraph (B) of section
24 4980(c)(2) (defining employer reversion) is amended by
25 striking “or” at the end of clause (i), by striking the pe-

1 riod at the end of clause (ii) and inserting “, or”, and
2 by adding at the end thereof the following new clause:

3 “(iii) any distribution to the employer
4 to the extent that the distribution is paid
5 within a reasonable period to the United
6 States in satisfaction of a Federal claim
7 for an equitable share of the plan’s surplus
8 assets, as determined pursuant to Federal
9 contracting regulations.”

10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall apply to reversions on or after the date
12 of the enactment of this Act.

13 **SEC. 246. CONTINUATION HEALTH COVERAGE FOR EM-**
14 **PLOYEES OF FAILED FINANCIAL INSTITU-**
15 **TIONS.**

16 (a) ENFORCEMENT OF CONTINUATION OF HEALTH
17 PLAN REQUIREMENTS OF ACQUIRERS OF FAILED DEPOS-
18 ITORY INSTITUTIONS.—Subsection (f) of section 4980B
19 (relating to continuation of coverage requirements of
20 group health plans) is amended by adding at the end
21 thereof the following new paragraph:

22 “(9) SPECIAL RULES FOR ACQUIRERS OF
23 FAILED DEPOSITORY INSTITUTIONS.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), any acquirer of a failed de-
3 pository institution—

4 “(i) shall have the same obligation to
5 provide a group health plan meeting the
6 requirements of this subsection with re-
7 spect to qualified individuals of such insti-
8 tution as the failed depository institution
9 would have had but for its failure, and

10 “(ii) shall be treated as the employer
11 of such qualified individuals for purposes
12 of this section.

13 “(B) TAX NOT TO APPLY IF FDIC OR RTC
14 PROVIDE CONTINUATION COVERAGE.—No per-
15 son shall be subject to any liability under this
16 section by reason of being an acquirer of a
17 failed depository institution if the Federal De-
18 posit Insurance Corporation or the Resolution
19 Trust Corporation elects to relieve such
20 acquirer from its obligations under subpara-
21 graph (A). In any such case, the requirements
22 of subparagraph (A) shall apply to the Federal
23 Deposit Insurance Corporation or the Resolu-
24 tion Trust Corporation, as the case may be.

1 “(C) ACQUIRER.—For purposes of this
2 paragraph, an entity is an acquirer of a failed
3 depository institution during any period if—

4 “(i) such entity holds substantially all
5 of the assets or liabilities of such institu-
6 tion, and

7 “(ii) (I) such entity is a bridge bank,
8 or

9 “(II) such entity acquired such assets
10 or liabilities from the Federal Deposit In-
11 surance Corporation, the Resolution Trust
12 Corporation, or a bridge bank.

13 “(D) FAILED DEPOSITORY INSTITUTION.—
14 For purposes of this section, the term ‘failed
15 depository institution’ means any depository in-
16 stitution (as defined in section 3(c) of the Fed-
17 eral Deposit Insurance Act) for which a receiver
18 or conservator has been appointed.

19 “(E) QUALIFIED INDIVIDUAL.—For pur-
20 poses of this section, the term ‘qualified individ-
21 ual’ means—

22 “(i) any individual who was, on the
23 day before the date of the appointment of
24 the receiver or conservator, provided cov-
25 erage under a group health plan of the

1 failed depository institution by reason of
2 the performance of services for such insti-
3 tution, and

4 “(ii) any individual who was, on such
5 day, a beneficiary under such plan as the
6 spouse or dependent child of the individual
7 described in clause (i).”

8 (b) TREATMENT OF DEPOSITORY INSTITUTION FAIL-
9 URES AS QUALIFYING EVENTS FOR RETIREES OF SUCH
10 INSTITUTIONS.—

11 (1) IN GENERAL.—Subparagraph (B) of section
12 4980B(f)(3) is amended—

13 (A) by striking “The termination” and in-
14 serting “(i) The termination”,

15 (B) by striking the period at the end and
16 inserting “, or”, and

17 (C) by inserting after clause (i) the follow-
18 ing new clause:

19 “(ii) the appointment of a receiver or
20 conservator for a failed depository institu-
21 tion from whose employment the covered
22 employee retired at any time.”

23 (2) CONFORMING AMENDMENT.—Subclause (I)
24 of section 4980B(f)(2)(B)(i) is amended by striking
25 “AND REDUCED HOURS” and inserting “, REDUCED

1 HOURS, AND FAILURES OF DEPOSITORY INSTITU-
2 TIONS”.

3 (c) EFFECTIVE DATES.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), the amendments made by this section
6 shall apply as if included in section 451 of the Fed-
7 eral Deposit Insurance Corporation Improvement
8 Act of 1991 as of the date of the enactment of such
9 Act.

10 (2) LIABILITY OF FDIC.—In the case of the
11 Federal Deposit Insurance Corporation or any
12 acquirer from such Corporation, the amendments
13 made by this section shall apply only to failed depos-
14 itory institutions for which the receiver or conserva-
15 tor is appointed after the date of the enactment of
16 this Act.

17 (3) SPECIAL RULE FOR COVERAGE UNDER FDIC
18 PLAN.—Effective as of the date of the enactment of
19 the Federal Deposit Insurance Corporation Improve-
20 ment Act of 1991, coverage under the health care
21 continuation plan maintained by the Federal Deposit
22 Insurance Corporation on June 25, 1992, and any
23 other substantially similar plan maintained by such
24 Corporation, shall be deemed to satisfy the obliga-
25 tions of the Federal Deposit Insurance Corporation

1 (and any acquirer from such Corporation) under sec-
 2 tion 4980B(f) of the Internal Revenue Code of 1986
 3 and section 451 of the Federal Deposit Insurance
 4 Corporation Improvement Act of 1991 with respect
 5 to qualified individuals of failed depository institu-
 6 tions.

7 **SEC. 247. DATE FOR ADOPTION OF PLAN AMENDMENTS.**

8 If any amendment made by this Act requires an
 9 amendment to any plan, such plan amendment shall not
 10 be required to be made before the first day of the first
 11 plan year beginning on or after January 1, 1995, if—

12 (1) during the period after such amendment
 13 takes effect and before such first plan year, the plan
 14 is operated in accordance with the requirements of
 15 such amendment, and

16 (2) such plan amendment applies retroactively
 17 to such period.

18 **TITLE III—TREATMENT OF**
 19 **LARGE PARTNERSHIPS**
 20 **Subtitle A—General Provisions**

21 **SEC. 301. SIMPLIFIED FLOW-THROUGH FOR LARGE PART-**
 22 **NERSHIPS.**

23 (a) GENERAL RULE.—Subchapter K (relating to
 24 partners and partnerships) is amended by adding at the
 25 end thereof the following new part:

3 **“SEC. 771. APPLICATION OF SUBCHAPTER TO LARGE PART-**
4 **NERSHIPS.**

8 "SEC. 772. SIMPLIFIED FLOW-THROUGH.

20 “(B) to the extent allocable to other activi-
21 ties,

1 “(4) tax-exempt interest,

2 “(5) applicable net AMT adjustment separately
3 computed for—

4 “(A) passive loss limitation activities, and

5 “(B) other activities,

6 “(6) general credits,

7 “(7) low-income housing credit determined
8 under section 42,

9 “(8) rehabilitation credit determined under sec-
10 tion 47,

11 “(9) foreign income taxes, and

12 “(10) the credit allowable under section 29.

13 “(b) SEPARATE COMPUTATIONS.—In determining
14 the amounts required under subsection (a) to be sepa-
15 rately taken into account by any partner, this section and
16 section 773 shall be applied separately with respect to
17 such partner by taking into account such partner’s dis-
18 tributive share of the items of income, gain, loss, deduc-
19 tion, or credit of the partnership.

20 “(c) TREATMENT AT PARTNER LEVEL.—

21 “(1) IN GENERAL.—Except as provided in this
22 subsection, rules similar to the rules of section
23 702(b) shall apply to any partner’s distributive share
24 of the amounts referred to in subsection (a).

1 “(2) INCOME OR LOSS FROM PASSIVE LOSS LIM-
2 ITATION ACTIVITIES.—For purposes of this chapter,
3 any partner’s distributive share of any income or
4 loss described in subsection (a)(1) shall be treated as
5 an item of income or loss (as the case may be) from
6 the conduct of a trade or business which is a single
7 passive activity (as defined in section 469). A similar
8 rule shall apply to a partner’s distributive share of
9 amounts referred to in paragraphs (3)(A) and
10 (5)(A) of subsection (a).

11 “(3) INCOME OR LOSS FROM OTHER ACTIVI-
12 TIES.—

13 “(A) IN GENERAL.—For purposes of this
14 chapter, any partner’s distributive share of any
15 income or loss described in subsection (a)(2)
16 shall be treated as an item of income or expense
17 (as the case may be) with respect to property
18 held for investment.

19 “(B) DEDUCTIONS FOR LOSS NOT SUB-
20 JECT TO SECTION 67.—The deduction under
21 section 212 for any loss described in subpara-
22 graph (A) shall not be treated as a miscellane-
23 ous itemized deduction for purposes of section
24 67.

1 “(4) TREATMENT OF NET CAPITAL GAIN OR
2 LOSS.—For purposes of this chapter, any partner’s
3 distributive share of any gain or loss described in
4 subsection (a)(3) shall be treated as a long-term
5 capital gain or loss, as the case may be.

6 “(5) MINIMUM TAX TREATMENT.—In determin-
7 ing the alternative minimum taxable income of any
8 partner, such partner’s distributive share of any ap-
9 plicable net AMT adjustment shall be taken into ac-
10 count in lieu of making the separate adjustments
11 provided in sections 56, 57, and 58 with respect to
12 the items of the partnership. Except as provided in
13 regulations, the applicable net AMT adjustment
14 shall be treated, for purposes of section 53, as an
15 adjustment or item of tax preference not specified in
16 section 53(d)(1)(B)(ii).

17 “(6) GENERAL CREDITS.—A partner’s distribu-
18 tive share of the amount referred to in paragraph
19 (6) of subsection (a) shall be taken into account as
20 a current year business credit.

21 “(d) OPERATING RULES.—For purposes of this sec-
22 tion—

23 “(1) PASSIVE LOSS LIMITATION ACTIVITY.—
24 The term ‘passive loss limitation activity’ means—

1 “(A) any activity which involves the con-
2 duct of a trade or business, and

3 “(B) any rental activity.

4 For purposes of the preceding sentence, the term
5 ‘trade or business’ includes any activity treated as a
6 trade or business under paragraph (5) or (6) of sec-
7 tion 469(c).

8 “(2) TAX-EXEMPT INTEREST.—The term ‘tax-
9 exempt interest’ means interest excludable from
10 gross income under section 103.

11 “(3) APPLICABLE NET AMT ADJUSTMENT.—

12 “(A) IN GENERAL.—The applicable net
13 AMT adjustment is—

14 “(i) with respect to taxpayers other
15 than corporations, the net adjustment de-
16 termined by using the adjustments applica-
17 ble to individuals, and

18 “(ii) with respect to corporations, the
19 net adjustment determined by using the
20 adjustments applicable to corporations.

21 “(B) NET ADJUSTMENT.—The term ‘net
22 adjustment’ means the net adjustment in the
23 items attributable to passive loss activities or
24 other activities (as the case may be) which

1 would result if such items were determined with
2 the adjustments of sections 56, 57, and 58.

3 “(4) TREATMENT OF CAPITAL GAINS AND
4 LOSSES.—

5 “(A) EXCLUSION FOR CERTAIN PUR-
6 POSES.—In determining the amounts referred
7 to in paragraphs (1) and (2) of subsection (a),
8 any net capital gain or net capital loss (as the
9 case may be) shall be excluded.

10 “(B) ALLOCATION RULES.—The net cap-
11 ital gain shall be treated—

12 “(i) as allocable to passive loss limita-
13 tion activities to the extent the net capital
14 gain does not exceed the net capital gain
15 determined by only taking into account
16 gains and losses from sales and exchanges
17 of property used in connection with such
18 activities, and

19 “(ii) as allocable to other activities to
20 the extent such gain exceeds the amount
21 allocated under clause (i).

22 A similar rule shall apply for purposes of allo-
23 cating any net capital loss.

24 “(C) NET CAPITAL LOSS.—The term ‘net
25 capital loss’ means the excess of the losses from

1 sales or exchanges of capital assets over the
2 gains from sales or exchange of capital assets.

3 “(5) GENERAL CREDITS.—The term ‘general
4 credits’ means any credit other than the low-income
5 housing credit, the rehabilitation credit, the foreign
6 tax credit, and the credit allowable under section 29.

7 “(6) FOREIGN INCOME TAXES.—The term ‘for-
8 eign income taxes’ means taxes described in section
9 901 which are paid or accrued to foreign countries
10 and to possessions of the United States.

11 “(e) SPECIAL RULE FOR UNRELATED BUSINESS
12 TAX.—In the case of a partner which is an organization
13 subject to tax under section 511, such partner’s distribu-
14 tive share of any items shall be taken into account sepa-
15 rately to the extent necessary to comply with the provi-
16 sions of section 512(c)(1).

17 “(f) SPECIAL RULES FOR APPLYING PASSIVE LOSS
18 LIMITATIONS.—If any person holds an interest in a large
19 partnership other than as a limited partner—

20 “(1) paragraph (2) of subsection (c) shall not
21 apply to such partner, and

22 “(2) such partner’s distributive share of the
23 partnership items allocable to passive loss limitation
24 activities shall be taken into account separately to

1 the extent necessary to comply with the provisions of
2 section 469.

3 The preceding sentence shall not apply to any items alloca-
4 ble to an interest held as a limited partner.

5 **“SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.**

6 “(a) GENERAL RULE.—

7 “(1) TAXABLE INCOME.—The taxable income of
8 a large partnership shall be computed in the same
9 manner as in the case of an individual except that—

10 “(A) the items described in section 772(a)
11 shall be separately stated, and

12 “(B) the modifications of subsection (b)
13 shall apply.

14 “(2) ELECTIONS.—All elections affecting the
15 computation of the taxable income of a large part-
16 nership or the computation of any credit of a large
17 partnership shall be made by the partnership; except
18 that the election under section 901 shall be made by
19 each partner separately.

20 “(3) LIMITATIONS, ETC.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraph (B), all limitations and other pro-
23 visions affecting the computation of the taxable
24 income of a large partnership or the computa-
25 tion of any credit of a large partnership shall

1 be applied at the partnership level (and not at
2 the partner level).

3 “(B) CERTAIN LIMITATIONS APPLIED AT
4 PARTNER LEVEL.—The following provisions
5 shall be applied at the partner level (and not at
6 the partnership level):

7 “(i) Section 68 (relating to overall
8 limitation on itemized deductions).

9 “(ii) Sections 49 and 465 (relating to
10 at risk limitations).

11 “(iii) Section 469 (relating to limita-
12 tion on passive activity losses and credits).

13 “(iv) Any other provision specified in
14 regulations.

15 “(4) COORDINATION WITH OTHER PROVI-
16 SIONS.—Paragraphs (2) and (3) shall apply notwith-
17 standing any other provision of this chapter other
18 than this part.

19 “(b) MODIFICATIONS TO DETERMINATION OF TAX-
20 ABLE INCOME.—In determining the taxable income of a
21 large partnership—

22 “(1) CERTAIN DEDUCTIONS NOT ALLOWED.—
23 The following deductions shall not be allowed:

24 “(A) The deduction for personal exemp-
25 tions provided in section 151.

1 “(B) The net operating loss deduction pro-
2 vided in section 172.

3 “(C) The additional itemized deductions
4 for individuals provided in part VII of sub-
5 chapter B (other than section 212 thereof).

6 “(2) CHARITABLE DEDUCTIONS.—In determin-
7 ing the amount allowable under section 170, the lim-
8 itation of section 170(b)(2) shall apply.

9 “(3) COORDINATION WITH SECTION 67.—In lieu
10 of applying section 67, 70 percent of the amount of
11 the miscellaneous itemized deductions shall be dis-
12 allowed.

13 “(c) SPECIAL RULES FOR INCOME FROM DISCHARGE
14 OF INDEBTEDNESS.—If a large partnership has income
15 from the discharge of any indebtedness—

16 “(1) such income shall be excluded in determin-
17 ing the amounts referred to in section 772(a), and

18 “(2) in determining the income tax of any part-
19 ner of such partnership—

20 “(A) such income shall be treated as an
21 item required to be separately taken into ac-
22 count under section 772(a), and

23 “(B) the provisions of section 108 shall be
24 applied without regard to this part.

1 **“SEC. 774. OTHER MODIFICATIONS.**

2 “(a) TREATMENT OF CERTAIN OPTIONAL ADJUST-
3 MENTS, ETC.—In the case of a large partnership—

4 “(1) computations under section 773 shall be
5 made without regard to any adjustment under sec-
6 tion 743(b) or 108(b), but

7 “(2) a partner’s distributive share of any
8 amount referred to in section 772(a) shall be appro-
9 priately adjusted to take into account any adjust-
10 ment under section 743(b) or 108(b) with respect to
11 such partner.

12 “(b) DEFERRED SALE TREATMENT OF CONTRIB-
13 UTED PROPERTY.—

14 “(1) TREATMENT OF PARTNERSHIP.—In the
15 case of any contribution of property to which this
16 subsection applies—

17 “(A) the basis of such property to the
18 partnership shall be its fair market value as of
19 the time of such contribution,

20 “(B) section 704(c) shall not apply to such
21 property, and

22 “(C) section 737 shall not apply.

23 “(2) TREATMENT OF CONTRIBUTING PART-
24 NER.—

1 “(A) IN GENERAL.—In the case of any
2 partner who makes a contribution of property
3 to which this subsection applies—

4 “(i) such partner shall recognize the
5 precontribution gain or loss from such
6 property as provided in this paragraph,
7 and

8 “(ii) appropriate adjustments to the
9 basis of such partner’s interest in the part-
10 nership shall be made for the amounts rec-
11 ognized under this paragraph.

12 “(B) CHARACTER.—The character of any
13 gain or loss recognized under this paragraph
14 shall be determined by reference to the char-
15 acter which would have resulted if the property
16 had been sold to the partnership at the time of
17 the contributions; except that any gain or loss
18 recognized under subparagraph (C)(i) shall be
19 treated as ordinary income or loss, as the case
20 may be.

21 “(C) TRANSACTIONS AT PARTNERSHIP
22 LEVEL.—

23 “(i) DEPRECIATION, ETC.—If any
24 partnership deduction for depreciation, de-
25 pletion, or amortization is increased by

1 reason of an increase in the basis of any
2 property under paragraph (1), the contrib-
3 uting partner shall recognize so much of
4 the precontribution gain with respect to
5 such property as does not exceed the in-
6 crease in such deduction. If there is a
7 precontribution loss, a similar rule shall
8 apply to any decrease in such a deduction.

9 “(ii) DISPOSITIONS.—

10 “(I) IN GENERAL.—Except as
11 otherwise provided in this clause, any
12 precontribution gain or loss with re-
13 spect to any property (to the extent
14 not previously taken into account
15 under this paragraph) shall be recog-
16 nized by the contributing partner if
17 the partnership makes any disposition
18 of the property.

19 “(II) DISTRIBUTIONS TO CON-
20 TRIBUTING PARTNER.—No gain or
21 loss shall be recognized under
22 subclause (I) by reason of any dis-
23 tribution of the contributed property
24 to the contributing partner (and sub-
25 paragraph (D)(ii) shall not apply to

1 any such distribution). In any such
2 case, no adjustment shall be made
3 under section 734 on account of such
4 distribution and the adjusted basis of
5 such property in the hands of the con-
6 tributing partner shall be its adjusted
7 basis immediately before the contribu-
8 tion properly adjusted for gain or loss
9 previously recognized under this para-
10 graph. If the property distributed con-
11 sists of an interest in an entity, this
12 subclause shall not apply to the extent
13 that the value of such interest is at-
14 tributable to property contributed to
15 such entity after such interest had
16 been contributed to the partnership.

17 “(iii) YEAR FOR WHICH AMOUNT
18 TAKEN INTO ACCOUNT.—Any amount rec-
19 ognized under this subparagraph shall be
20 taken into account for the partner’s tax-
21 able year in which or with which ends the
22 partnership taxable year of the deduction
23 or disposition.

24 “(D) TRANSACTIONS AT PARTNER
25 LEVEL.—

1 “(i) IN GENERAL.—If the contributing
2 partner makes a disposition of any portion
3 of his interest in the partnership, a cor-
4 responding portion of any precontribution
5 gain or loss which was not previously taken
6 into account under this paragraph shall be
7 recognized for the partner’s taxable year in
8 which the disposition occurs. The preced-
9 ing sentence shall not apply to a disposi-
10 tion at death.

11 “(ii) TREATMENT OF CERTAIN DIS-
12 TRIBUTIONS.—If—

13 “(I) the amount of cash and the
14 fair market value of property distrib-
15 uted to a partner, exceeds

16 “(II) the adjusted basis of such
17 partner’s interest in the partnership
18 immediately before the distribution
19 (determined without regard to any ad-
20 justment under subparagraph (A)(ii)
21 resulting from such distribution),
22 the contributing partner shall recognize so
23 much of any precontribution gain as does
24 not exceed such excess.

1 “(iii) SPECIAL RULE.—Except as pro-
2 vided in clause (ii)(II), any basis adjust-
3 ment under subparagraph (A)(ii) resulting
4 from any gain or loss recognized under this
5 subparagraph shall be treated as occurring
6 immediately before the disposition or dis-
7 tribution involved.

8 “(E) SECTION 267 AND 707(b) PRINCIPLES
9 TO APPLY.—No loss shall be recognized under
10 subparagraph (C)(ii) or (D) by reason of any
11 disposition (directly or indirectly) to a person
12 related (within the meaning of section 267(b) or
13 707(b)(1)) to the contributing partner.

14 “(F) TREATMENT OF CERTAIN NON-
15 TAXABLE EXCHANGES.—

16 “(i) SECTION 1031 AND 1033 TRANS-
17 ACTIONS.—If the disposition referred to in
18 subclause (I) of subparagraph (C)(ii) is an
19 exchange described in section 1031 or a
20 compulsory or involuntary conversion with-
21 in the meaning of section 1033—

22 “(I) the amount of gain or loss
23 recognized by the contributing partner
24 under such subclause (I) shall not ex-

1 ceed the gain or loss recognized by the
2 partnership on the disposition, and

3 “(II) the replacement property
4 shall be treated as the contributed
5 property for purposes of this para-
6 graph.

7 For purposes of the preceding sentence,
8 the term ‘replacement property’ means the
9 property the basis of which is determined
10 under section 1031(d) or 1033(b), which-
11 ever is applicable.

12 “(ii) CONTRIBUTIONS TO CON-
13 TROLLED PARTNERSHIP.—If the dispo-
14 sition referred to in subclause (I) of sub-
15 paragraph (C)(ii) is a contribution of the
16 property to another partnership which is a
17 controlled partnership—

18 “(I) the rules of subclause (I) of
19 clause (i) shall apply, and

20 “(II) the partnership shall be
21 treated as continuing to hold the con-
22 tributed property so long as the other
23 partnership continues to be a con-
24 trolled partnership and continues to
25 hold such property.

1 For purposes of the preceding sentence,
2 the term ‘controlled partnership’ means
3 any partnership in which the partnership
4 making the disposition owns more than 50
5 percent of the capital interest or profits in-
6 terest.

7 “(3) PRECONTRIBUTION GAIN OR LOSS.—For
8 purposes of this subsection—

9 “(A) PRECONTRIBUTION GAIN.—The term
10 ‘precontribution gain’ means the excess (if any)
11 of—

12 “(i) the fair market value of the con-
13 tributed property as of the time of the con-
14 tribution, over

15 “(ii) the adjusted basis of such prop-
16 erty immediately before such contribution.

17 “(B) PRECONTRIBUTION LOSS.—The term
18 ‘precontribution loss’ means the excess (if any)
19 of the amount referred to in clause (ii) of sub-
20 paragraph (A) over the amount referred to in
21 clause (i) of subparagraph (A).

22 “(4) CONTRIBUTIONS TO WHICH SUBSECTION
23 APPLIES.—This subsection shall apply to any con-
24 tribution of property (other than cash) which is
25 made by any partner to a partnership if—

1 “(A) as of the time of such contribution,
2 such partnership is a large partnership, or

3 “(B) such contribution is to a partnership
4 reasonably expected to become a large partner-
5 ship.

6 This subsection shall not apply to any contribution
7 made before the date of the enactment of this part.

8 “(c) CREDIT RECAPTURE DETERMINED AT PART-
9 nership LEVEL.—

10 “(1) IN GENERAL.—In the case of a large part-
11 nership—

12 “(A) any credit recapture shall be taken
13 into account by the partnership, and

14 “(B) the amount of such recapture shall be
15 determined as if the credit with respect to
16 which the recapture is made had been fully uti-
17 lized to reduce tax.

18 “(2) METHOD OF TAKING RECAPTURE INTO AC-
19 COUNT.—A large partnership shall take into account
20 a credit recapture by reducing the amount of the ap-
21 propriate current year credit to the extent thereof,
22 and if such recapture exceeds the amount of such
23 current year credit, the partnership shall be liable to
24 pay such excess.

1 “(3) DISPOSITIONS NOT TO TRIGGER RECAP-
2 TURE.—No credit recapture shall be required by rea-
3 son of any transfer of an interest in a large partner-
4 ship.

5 “(4) CREDIT RECAPTURE.—For purposes of
6 this subsection, the term ‘credit recapture’ means
7 any increase in tax under section 42(j) or 50(a).

8 “(d) PARTNERSHIP NOT TERMINATED BY REASON
9 OF CHANGE IN OWNERSHIP.—Subparagraph (B) of sec-
10 tion 708(b)(1) shall not apply to a large partnership.

11 “(e) PARTNERSHIP ENTITLED TO CERTAIN CRED-
12 ITS.—The following shall be allowed to a large partnership
13 and shall not be taken into account by the partners of
14 such partnership:

15 “(1) The credit provided by section 34.

16 “(2) Any credit or refund under section
17 852(b)(3)(D).

18 “(f) TREATMENT OF REMIC RESIDUALS.—For pur-
19 poses of applying section 860E(e)(6) to any large partner-
20 ship—

21 “(1) all interests in such partnership shall be
22 treated as held by disqualified organizations,

23 “(2) in lieu of applying subparagraph (C) of
24 section 860E(e)(6), the amount subject to tax under

1 section 860E(e)(6) shall be excluded from the gross
 2 income of such partnership, and

3 “(3) subparagraph (D) of section 860E(e)(6)
 4 shall not apply.

5 “(g) SPECIAL RULES FOR APPLYING CERTAIN IN-
 6 STALLMENT SALE RULES.—In the case of a large partner-
 7 ship—

8 “(1) the provisions of sections 453(l)(3) and
 9 453A shall be applied at the partnership level, and

10 “(2) in determining the amount of interest pay-
 11 able under such sections, such partnership shall be
 12 treated as subject to tax under this chapter at the
 13 highest rate of tax in effect under section 1 or 11.

14 **“SEC. 775. LARGE PARTNERSHIP.**

15 “(a) GENERAL RULE.—For purposes of this part—

16 “(1) IN GENERAL.—Except as otherwise pro-
 17 vided in this section or section 776, the term ‘large
 18 partnership’ means, with respect to any partnership
 19 taxable year, any partnership if the number of per-
 20 sons who were partners in such partnership in such
 21 taxable year or any preceding partnership taxable
 22 year ending on or after December 31, 1993, equaled
 23 or exceeded 250. To the extent provided in regula-
 24 tions, a partnership shall cease to be treated as a
 25 large partnership for any partnership taxable year if

1 in such taxable year fewer than 100 persons were
2 partners in such partnership.

3 “(2) ELECTION FOR PARTNERSHIPS WITH AT
4 LEAST 100 PARTNERS.—If a partnership makes an
5 election under this paragraph, paragraph (1) shall
6 be applied by substituting ‘100’ for ‘250’. Such an
7 election shall apply to the taxable year for which
8 made and all subsequent taxable years unless re-
9 voked with the consent of the Secretary.

10 “(b) SPECIAL RULES FOR CERTAIN SERVICE PART-
11 NERSHIPS.—

12 “(1) CERTAIN PARTNERS NOT COUNTED.—For
13 purposes of this section, the term ‘partner’ does not
14 include any individual performing substantial serv-
15 ices in connection with the activities of the partner-
16 ship and holding an interest in such partnership, or
17 an individual who formerly performed substantial
18 services in connection with such activities and who
19 held an interest in such partnership at the time the
20 individual performed such services.

21 “(2) EXCLUSION.—For purposes of this part,
22 the term ‘large partnership’ does not include any
23 partnership if substantially all the partners of such
24 partnership—

1 “(A) are individuals performing substantial
2 services in connection with the activities of such
3 partnership or are personal service corporations
4 (as defined in section 269A(b)) the owner-em-
5 ployees (as defined in section 269A(b)) of which
6 perform such substantial services,

7 “(B) are retired partners who had per-
8 formed such substantial services, or

9 “(C) are spouses of partners who are per-
10 forming (or had previously performed) such
11 substantial services.

12 “(3) SPECIAL RULE FOR LOWER TIER PART-
13 NERSHIPS.—For purposes of this subsection, the ac-
14 tivities of a partnership shall include the activities of
15 any other partnership in which the partnership owns
16 directly an interest in the capital and profits of at
17 least 80 percent.

18 “(c) EXCLUSION OF COMMODITY POOLS.—For pur-
19 poses of this part, the term ‘large partnership’ does not
20 include any partnership the principal activity of which is
21 the buying and selling of commodities (not described in
22 section 1221(1)), or options, futures, or forwards with re-
23 spect to such commodities.

24 “(d) SECRETARY MAY RELY ON TREATMENT ON RE-
25 TURN.—If, on the partnership return of any partnership,

1 such partnership is treated as a large partnership, such
2 treatment shall be binding on such partnership and all
3 partners of such partnership but not on the Secretary.

4 **“SEC. 776. SPECIAL RULES FOR PARTNERSHIPS HOLDING**
5 **OIL AND GAS PROPERTIES.**

6 “(a) EXCEPTION FOR PARTNERSHIPS HOLDING SIG-
7 NIFICANT OIL AND GAS PROPERTIES.—

8 “(1) IN GENERAL.—For purposes of this part,
9 the term ‘large partnership’ shall not include any
10 partnership if the average percentage of assets (by
11 value) held by such partnership during the taxable
12 year which are oil or gas properties is at least 25
13 percent. For purposes of the preceding sentence, any
14 interest held by a partnership in another partnership
15 shall be disregarded, except that the partnership
16 shall be treated as holding its proportionate share of
17 the assets of such other partnership.

18 “(2) ELECTION TO WAIVE EXCEPTION.—Any
19 partnership may elect to have paragraph (1) not
20 apply. Such an election shall apply to the partner-
21 ship taxable year for which made and all subsequent
22 partnership taxable years unless revoked with the
23 consent of the Secretary.

24 “(b) SPECIAL RULES WHERE PART APPLIES.—

1 “(1) COMPUTATION OF PERCENTAGE DEPLE-
2 TION.—In the case of a large partnership, except as
3 provided in paragraph (2)—

4 “(A) the allowance for depletion under sec-
5 tion 611 with respect to any partnership oil or
6 gas property shall be computed at the partner-
7 ship level without regard to any provision of
8 section 613A requiring such allowance to be
9 computed separately by each partner,

10 “(B) such allowance shall be determined
11 without regard to the provisions of section
12 613A(c) limiting the amount of production for
13 which percentage depletion is allowable and
14 without respect to paragraph (1) of section
15 613A(d), and

16 “(C) paragraph (3) of section 705(a) shall
17 not apply.

18 “(2) TREATMENT OF CERTAIN PARTNERS.—

19 “(A) IN GENERAL.—In the case of a dis-
20 qualified person, the treatment under this chap-
21 ter of such person’s distributive share of any
22 item of income, gain, loss, deduction, or credit
23 attributable to any partnership oil or gas prop-
24 erty shall be determined without regard to this
25 part. Such person’s distributive share of any

1 such items shall be excluded for purposes of
2 making determinations under sections 772 and
3 773.

4 “(B) DISQUALIFIED PERSON.—For pur-
5 poses of subparagraph (A), the term ‘disquali-
6 fied person’ means, with respect to any partner-
7 ship taxable year—

8 “(i) any person referred to in para-
9 graph (2) or (4) of section 613A(d) for
10 such person’s taxable year in which such
11 partnership taxable year ends, and

12 “(ii) any other person if such person’s
13 average daily production of domestic crude
14 oil and natural gas for such person’s tax-
15 able year in which such partnership tax-
16 able year ends exceeds 500 barrels.

17 “(C) AVERAGE DAILY PRODUCTION.—For
18 purposes of subparagraph (B), a person’s aver-
19 age daily production of domestic crude oil and
20 natural gas for any taxable year shall be com-
21 puted as provided in section 613A(c)(2)—

22 “(i) by taking into account all produc-
23 tion of domestic crude oil and natural gas
24 (including such person’s proportionate
25 share of any production of a partnership),

1 “(ii) by treating 6,000 cubic feet of
2 natural gas as a barrel of crude oil, and

3 “(iii) by treating as 1 person all per-
4 sons treated as 1 taxpayer under section
5 613A(c)(8) or among whom allocations are
6 required under such section.

7 **“SEC. 777. REGULATIONS.**

8 “The Secretary shall prescribe such regulations as
9 may be appropriate to carry out the purposes of this
10 part.”

11 (b) CLERICAL AMENDMENT.—The table of parts for
12 subchapter K of chapter 1 is amended by adding at the
13 end thereof the following new item:

“Part IV. Special rules for large partnerships.”

14 **SEC. 302. SIMPLIFIED AUDIT PROCEDURES FOR LARGE**
15 **PARTNERSHIPS.**

16 (a) GENERAL RULE.—Chapter 63 is amended by
17 adding at the end thereof the following new subchapter:

18 **“SUBCHAPTER D—TREATMENT OF LARGE**
19 **PARTNERSHIPS**

“Part I. Treatment of partnership items and adjustments.

“Part II. Partnership level adjustments.

“Part III. Definitions and special rules.

20 **“PART I—TREATMENT OF PARTNERSHIP ITEMS**
21 **AND ADJUSTMENTS**

“Sec. 6240. Application of subchapter.

“Sec. 6241. Partner’s return must be consistent with partnership return.

“Sec. 6242. Procedures for taking partnership adjustments into account.

1 **“SEC. 6240. APPLICATION OF SUBCHAPTER.**

2 “(a) GENERAL RULE.—This subchapter shall only
3 apply to large partnerships and partners in such partner-
4 ships.

5 “(b) COORDINATION WITH OTHER PARTNERSHIP
6 AUDIT PROCEDURES.—

7 “(1) IN GENERAL.—Subchapter C of this chap-
8 ter shall not apply to any large partnership other
9 than in its capacity as a partner in another partner-
10 ship which is not a large partnership.

11 “(2) TREATMENT WHERE PARTNER IN OTHER
12 PARTNERSHIP.—If a large partnership is a partner
13 in another partnership which is not a large partner-
14 ship—

15 “(A) subchapter C of this chapter shall
16 apply to items of such large partnership which
17 are partnership items with respect to such other
18 partnership, but

19 “(B) any adjustment under such sub-
20 chapter C shall be taken into account in the
21 manner provided by section 6242.

1 **“SEC. 6241. PARTNER’S RETURN MUST BE CONSISTENT**
2 **WITH PARTNERSHIP RETURN.**

3 “(a) GENERAL RULE.—A partner of any large part-
4 nership shall, on the partner’s return, treat each partner-
5 ship item attributable to such partnership in a manner
6 which is consistent with the treatment of such partnership
7 item on the partnership return.

8 “(b) UNDERPAYMENT DUE TO INCONSISTENT
9 TREATMENT ASSESSED AS MATH ERROR.—Any
10 underpayment of tax by a partner by reason of failing to
11 comply with the requirements of subsection (a) shall be
12 assessed and collected in the same manner as if such
13 underpayment were on account of a mathematical or cleri-
14 cal error appearing on the partner’s return. Paragraph (2)
15 of section 6213(b) shall not apply to any assessment of
16 an underpayment referred to in the preceding sentence.

17 “(c) ADJUSTMENTS NOT TO AFFECT PRIOR YEAR
18 OF PARTNERS.—

19 “(1) IN GENERAL.—Except as provided in para-
20 graph (2), subsections (a) and (b) shall apply with-
21 out regard to any adjustment to the partnership
22 item under part II.

23 “(2) CERTAIN CHANGES IN DISTRIBUTIVE
24 SHARE TAKEN INTO ACCOUNT BY PARTNER.—

25 “(A) IN GENERAL.—To the extent that
26 any adjustment under part II involves a change

1 under section 704 in a partner's distributive
2 share of the amount of any partnership item
3 shown on the partnership return, such adjust-
4 ment shall be taken into account in applying
5 this title to such partner for the partner's tax-
6 able year for which such item was required to
7 be taken into account.

8 “(B) COORDINATION WITH DEFICIENCY
9 PROCEDURES.—

10 “(i) IN GENERAL.—Subchapter B
11 shall not apply to the assessment or collec-
12 tion of any underpayment of tax attrib-
13 utable to an adjustment referred to in sub-
14 paragraph (A).

15 “(ii) ADJUSTMENT NOT PRE-
16 CLUDED.—Notwithstanding any other law
17 or rule of law, nothing in subchapter B (or
18 in any proceeding under subchapter B)
19 shall preclude the assessment or collection
20 of any underpayment of tax (or the allow-
21 ance of any credit or refund of any over-
22 payment of tax) attributable to an adjust-
23 ment referred to in subparagraph (A) and
24 such assessment or collection or allowance
25 (or any notice thereof) shall not preclude

1 any notice, proceeding, or determination
2 under subchapter B.

3 “(C) PERIOD OF LIMITATIONS.—The pe-
4 riod for—

5 “(i) assessing any underpayment of
6 tax, or

7 “(ii) filing a claim for credit or refund
8 of any overpayment of tax,
9 attributable to an adjustment referred to in
10 subparagraph (A) shall not expire before the
11 close of the period prescribed by section 6248
12 for making adjustments with respect to the
13 partnership taxable year involved.

14 “(D) TIERED STRUCTURES.—If the part-
15 ner referred to in subparagraph (A) is another
16 partnership or an S corporation, the rules of
17 this paragraph shall also apply to persons hold-
18 ing interests in such partnership or S corpora-
19 tion (as the case may be); except that, if such
20 partner is a large partnership, the adjustment
21 referred to in subparagraph (A) shall be taken
22 into account in the manner provided by section
23 6242.

1 “(d) ADDITION TO TAX FOR FAILURE TO COMPLY
2 WITH SECTION.—

**“For addition to tax in case of partner’s disregard
of requirements of this section, see part II of sub-
chapter A of chapter 68.**

3 **“SEC. 6242. PROCEDURES FOR TAKING PARTNERSHIP AD-
4 JUSTMENTS INTO ACCOUNT.**

5 “(a) ADJUSTMENTS FLOW THROUGH TO PARTNERS
6 FOR YEAR IN WHICH ADJUSTMENT TAKES EFFECT.—

7 “(1) IN GENERAL.—If any partnership adjust-
8 ment with respect to any partnership item takes ef-
9 fect (within the meaning of subsection (d)(2)) during
10 any partnership taxable year and if an election
11 under paragraph (2) does not apply to such adjust-
12 ment, such adjustment shall be taken into account
13 in determining the amount of such item for the part-
14 nership taxable year in which such adjustment takes
15 effect. In applying this title to any person who is
16 (directly or indirectly) a partner in such partnership
17 during such partnership taxable year, such adjust-
18 ment shall be treated as an item actually arising
19 during such taxable year.

20 “(2) PARTNERSHIP LIABLE IN CERTAIN
21 CASES.—If—

22 “(A) a partnership elects under this para-
23 graph to not take an adjustment into account
24 under paragraph (1),

1 “(B) a partnership does not make such an
2 election but in filing its return for any partner-
3 ship taxable year fails to take fully into account
4 any partnership adjustment as required under
5 paragraph (1), or

6 “(C) any partnership adjustment involves a
7 reduction in a credit which exceeds the
8 amount of such credit determined for the
9 partnership taxable year in which the adjust-
10 ment takes effect,

11 the partnership shall pay to the Secretary an
12 amount determined by applying the rules of sub-
13 section (b)(4) to the adjustments not so taken into
14 account and any excess referred to in subparagraph
15 (C).

16 “(3) OFFSETTING ADJUSTMENTS TAKEN INTO
17 ACCOUNT.—If a partnership adjustment requires an-
18 other adjustment in a taxable year after the ad-
19 justed year and before the partnership taxable year
20 in which such partnership adjustment takes effect,
21 such other adjustment shall be taken into account
22 under this subsection for the partnership taxable
23 year in which such partnership adjustment takes ef-
24 fect.

1 “(4) COORDINATION WITH PART II.—Amounts
2 taken into account under this subsection for any
3 partnership taxable year shall continue to be treated
4 as adjustments for the adjusted year for purposes of
5 determining whether such amounts may be read-
6 justed under part II.

7 “(b) PARTNERSHIP LIABLE FOR INTEREST AND
8 PENALTIES.—

9 “(1) IN GENERAL.—If a partnership adjust-
10 ment takes effect during any partnership taxable
11 year and such adjustment results in an imputed
12 underpayment for the adjusted year, the partner-
13 ship—

14 “(A) shall pay to the Secretary interest
15 computed under paragraph (2), and

16 “(B) shall be liable for any penalty, addi-
17 tion to tax, or additional amount as provided in
18 paragraph (3).

19 “(2) DETERMINATION OF AMOUNT OF INTER-
20 EST.—The interest computed under this paragraph
21 with respect to any partnership adjustment is the in-
22 terest which would be determined under chapter
23 67—

1 “(A) on the imputed underpayment deter-
2 mined under paragraph (4) with respect to such
3 adjustment, or

4 “(B) for the period beginning on the day
5 after the return due date for the adjusted year
6 and ending on the return due date for the part-
7 nership taxable year in which such adjustment
8 takes effect (or, if earlier, in the case of any ad-
9 justment to which subsection (a)(2) applies, the
10 date on which the payment under subsection
11 (a)(2) is made).

12 Proper adjustments in the amount determined under
13 the preceding sentence shall be made for adjust-
14 ments required for partnership taxable years after
15 the adjusted year and before the year in which the
16 partnership adjustment takes effect by reason of
17 such partnership adjustment.

18 “(3) PENALTIES.—A partnership shall be liable
19 for any penalty, addition to tax, or additional
20 amount for which it would have been liable if such
21 partnership had been an individual subject to tax
22 under chapter 1 for the adjusted year and the im-
23 puted underpayment determined under paragraph
24 (4) were an actual underpayment (or understate-
25 ment) for such year.

1 “(4) IMPUTED UNDERPAYMENT.—For purposes
2 of this subsection, the imputed underpayment deter-
3 mined under this paragraph with respect to any
4 partnership adjustment is the underpayment (if any)
5 which would result—

6 “(A) by netting all adjustments to items of
7 income, gain, loss, or deduction and—

8 “(i) if such netting results in a net in-
9 crease in income, by treating such net in-
10 crease as an underpayment equal to the
11 amount of such net increase multiplied by
12 the highest rate of tax in effect under sec-
13 tion 1 or 11 for the adjusted year, or

14 “(ii) if such netting results in a net
15 decrease in income, by treating such net
16 decrease as an overpayment equal to such
17 net decrease multiplied by such highest
18 rate, and

19 “(B) by taking adjustments to credits into
20 account as increases or decreases (whichever is
21 appropriate) in the amount of tax.

22 For purposes of the preceding sentence, any net de-
23 crease in a loss shall be treated as an increase in in-
24 come and a similar rule shall apply to a net increase
25 in a loss.

1 “(c) ADMINISTRATIVE PROVISIONS.—

2 “(1) IN GENERAL.—Any payment required by
3 subsection (a)(2) or (b)(1)(A)—

4 “(A) shall be assessed and collected in the
5 same manner as if it were a tax imposed by
6 subtitle C, and

7 “(B) shall be paid on or before the return
8 due date for the partnership taxable year in
9 which the partnership adjustment takes effect.

10 “(2) INTEREST.—For purposes of determining
11 interest, any payment required by subsection (a)(2)
12 or (b)(1)(A) shall be treated as an underpayment
13 of tax.

14 “(3) PENALTIES.—

15 “(A) IN GENERAL.—In the case of any
16 failure by any partnership to pay on the date
17 prescribed therefor any amount required by
18 subsection (a)(2) or (b)(1)(A), there is hereby
19 imposed on such partnership a penalty of 10
20 percent of the underpayment. For purposes of
21 the preceding sentence, the term
22 ‘underpayment’ means the excess of any pay-
23 ment required under this section over the
24 amount (if any) paid on or before the date pre-
25 scribed therefor.

1 “(B) ACCURACY-RELATED AND FRAUD
2 PENALTIES MADE APPLICABLE.—For purposes
3 of part II of subchapter A of chapter 68, any
4 payment required by subsection (a)(2) shall be
5 treated as an underpayment of tax.

6 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
7 poses of this section—

8 “(1) PARTNERSHIP ADJUSTMENT.—The term
9 ‘partnership adjustment’ means any adjustment in
10 the amount of any partnership item of a large part-
11 nership.

12 “(2) WHEN ADJUSTMENT TAKES EFFECT.—A
13 partnership adjustment takes effect—

14 “(A) in the case of an adjustment pursu-
15 ant to the decision of a court in a proceeding
16 brought under part II, when such decision be-
17 comes final,

18 “(B) in the case of an adjustment pursu-
19 ant to any administrative adjustment request
20 under section 6251, when such adjustment is
21 allowed by the Secretary, or

22 “(C) in any other case, when such adjust-
23 ment is made.

1 “(3) ADJUSTED YEAR.—The term ‘adjusted
2 year’ means the partnership taxable year to which
3 the item being adjusted relates.

4 “(4) RETURN DUE DATE.—The term ‘return
5 due date’ means, with respect to any taxable year,
6 the date prescribed for filing the partnership return
7 for such taxable year (determined without regard to
8 extensions).

9 “(5) ADJUSTMENTS INVOLVING CHANGES IN
10 CHARACTER.—Under regulations, appropriate ad-
11 justments in the application of this section shall be
12 made for purposes of taking into account partner-
13 ship adjustments which involve a change in the char-
14 acter of any item of income, gain, loss, or deduction.

15 “(e) PAYMENTS NONDEDUCTIBLE.—No deduction
16 shall be allowed under subtitle A for any payment required
17 to be made by a large partnership under this section.

18 **“PART II—PARTNERSHIP LEVEL ADJUSTMENTS**

 “Subpart A. Adjustments by Secretary.

 “Subpart B. Claims for adjustments by partnership.

19 **“Subpart A—Adjustments by Secretary**

 “Sec. 6245. Secretarial authority.

 “Sec. 6246. Restrictions on partnership adjustments.

 “Sec. 6247. Judicial review of partnership adjustment.

 “Sec. 6248. Period of limitations for making adjustments.

1 **“SEC. 6245. SECRETARIAL AUTHORITY.**

2 “(a) GENERAL RULE.—The Secretary is authorized
3 and directed to make adjustments at the partnership level
4 in any partnership item to the extent necessary to have
5 such item be treated in the manner required.

6 “(b) NOTICE OF PARTNERSHIP ADJUSTMENT.—

7 “(1) IN GENERAL.—If the Secretary determines
8 that a partnership adjustment is required, the Sec-
9 retary is authorized to send notice of such adjust-
10 ment to the partnership by certified mail or reg-
11 istered mail. Such notice shall be sufficient if mailed
12 to the partnership at its last known address even if
13 the partnership has terminated its existence.

14 “(2) FURTHER NOTICES RESTRICTED.—If the
15 Secretary mails a notice of a partnership adjustment
16 to any partnership for any partnership taxable year
17 and the partnership files a petition under section
18 6247 with respect to such notice, in the absence of
19 a showing of fraud, malfeasance, or misrepresenta-
20 tion of a material fact, the Secretary shall not mail
21 another such notice to such partnership with respect
22 to such taxable year.

23 “(3) AUTHORITY TO RESCIND NOTICE WITH
24 PARTNERSHIP CONSENT.—The Secretary may, with
25 the consent of the partnership, rescind any notice of
26 a partnership adjustment mailed to such partner-

1 ship. Any notice so rescinded shall not be treated as
2 a notice of a partnership adjustment, for purposes of
3 this section, section 6246, and section 6247, and the
4 taxpayer shall have no right to bring a proceeding
5 under section 6247 with respect to such notice.
6 Nothing in this subsection shall affect any suspen-
7 sion of the running of any period of limitations dur-
8 ing any period during which the rescinded notice
9 was outstanding.

10 **“SEC. 6246. RESTRICTIONS ON PARTNERSHIP ADJUST-**
11 **MENTS.**

12 “(a) GENERAL RULE.—Except as otherwise provided
13 in this chapter, no adjustment to any partnership item
14 may be made (and no levy or proceeding in any court for
15 the collection of any amount resulting from such adjust-
16 ment may be made, begun or prosecuted) before—

17 “(1) the close of the 90th day after the day on
18 which a notice of a partnership adjustment was
19 mailed to the partnership, and

20 “(2) if a petition is filed under section 6247
21 with respect to such notice, the decision of the court
22 has become final.

23 “(b) PREMATURE ACTION MAY BE ENJOINED.—
24 Notwithstanding section 7421(a), any action which vio-
25 lates subsection (a) may be enjoined in the proper court,

1 including the Tax Court. The Tax Court shall have no ju-
2 risdiction to enjoin any action under this subsection unless
3 a timely petition has been filed under section 6247 and
4 then only in respect of the adjustments that are the sub-
5 ject of such petition.

6 “(c) EXCEPTIONS TO RESTRICTIONS ON ADJUST-
7 MENTS.—

8 “(1) ADJUSTMENTS ARISING OUT OF MATH OR
9 CLERICAL ERRORS.—

10 “(A) IN GENERAL.—If the partnership is
11 notified that, on account of a mathematical or
12 clerical error appearing on the partnership re-
13 turn, an adjustment to a partnership item is re-
14 quired, rules similar to the rules of paragraphs
15 (1) and (2) of section 6213(b) shall apply to
16 such adjustment.

17 “(B) SPECIAL RULE.—If a large partner-
18 ship is a partner in another large partnership,
19 any adjustment on account of such partner-
20 ship’s failure to comply with the requirements
21 of section 6241(a) with respect to its interest in
22 such other partnership shall be treated as an
23 adjustment referred to in subparagraph (A), ex-
24 cept that paragraph (2) of section 6213(b) shall
25 not apply to such adjustment.

“(2) PARTNERSHIP MAY WAIVE RESTRIC-
TIONS.—The partnership shall at any time (whether
or not a notice of partnership adjustment has been
issued) have the right, by a signed notice in writing
filed with the Secretary, to waive the restrictions
provided in subsection (a) on the making of any
partnership adjustment.

8 “(d) LIMIT WHERE NO PROCEEDING BEGUN.—If no
9 proceeding under section 6247 is begun with respect to
10 any notice of a partnership adjustment during the 90-day
11 period described in subsection (a), the amount for which
12 the partnership is liable under section 6242 (and any in-
13 crease in any partner’s liability for tax under chapter 1
14 by reason of any adjustment under section 6242(a)) shall
15 not exceed the amount determined in accordance with such
16 notice.

17 "SEC. 6247. JUDICIAL REVIEW OF PARTNERSHIP ADJUST-
18 MENT.

19 “(a) GENERAL RULE.—Within 90 days after the date
20 on which a notice of a partnership adjustment is mailed
21 to the partnership with respect to any partnership taxable
22 year, the partnership may file a petition for a readjust-
23 ment of the partnership items for such taxable year with—
24 “(1) the Tax Court,

1 “(2) the district court of the United States for
2 the district in which the partnership’s principal place
3 of business is located, or

4 “(3) the Claims Court.

5 “(b) JURISDICTIONAL REQUIREMENT FOR BRINGING
6 ACTION IN DISTRICT COURT OR CLAIMS COURT.—

7 “(1) IN GENERAL.—A readjustment petition
8 under this section may be filed in a district court of
9 the United States or the Claims Court only if the
10 partnership filing the petition deposits with the Sec-
11 retary, on or before the date the petition is filed, the
12 amount for which the partnership would be liable
13 under section 6242(b) (as of the date of the filing
14 of the petition) if the partnership items were ad-
15 justed as provided by the notice of partnership ad-
16 justment. The court may by order provide that the
17 jurisdictional requirements of this paragraph are
18 satisfied where there has been a good faith attempt
19 to satisfy such requirement and any shortfall of the
20 amount required to be deposited is timely corrected.

21 “(2) INTEREST PAYABLE.—Any amount depos-
22 ited under paragraph (1), while deposited, shall not
23 be treated as a payment of tax for purposes of this
24 title (other than chapter 67).

1 “(c) SCOPE OF JUDICIAL REVIEW.—A court with
2 which a petition is filed in accordance with this section
3 shall have jurisdiction to determine all partnership items
4 of the partnership for the partnership taxable year to
5 which the notice of partnership adjustment relates and the
6 proper allocation of such items among the partners (and
7 the applicability of any penalty, addition to tax, or addi-
8 tional amount for which the partnership may be liable
9 under section 6242(b)).

10 “(d) DETERMINATION OF COURT REVIEWABLE.—
11 Any determination by a court under this section shall have
12 the force and effect of a decision of the Tax Court or a
13 final judgment or decree of the district court or the Claims
14 Court, as the case may be, and shall be reviewable as such.
15 The date of any such determination shall be treated as
16 being the date of the court’s order entering the decision.

17 “(e) EFFECT OF DECISION DISMISSING ACTION.—If
18 an action brought under this section is dismissed other
19 than by reason of a rescission under section 6245(b)(3),
20 the decision of the court dismissing the action shall be con-
21 sidered as its decision that the notice of partnership ad-
22 justment is correct, and an appropriate order shall be en-
23 tered in the records of the court.

1 **“SEC. 6248. PERIOD OF LIMITATIONS FOR MAKING ADJUST-**
2 **MENTS.**

3 “(a) GENERAL RULE.—Except as otherwise provided
4 in this section, no adjustment under this subpart to any
5 partnership item for any partnership taxable year may be
6 made after the date which is 3 years after the later of—

7 “(1) the date on which the partnership return
8 for such taxable year was filed, or

9 “(2) the last day for filing such return for such
10 year (determined without regard to extensions).

11 “(b) EXTENSION BY AGREEMENT.—The period de-
12 scribed in subsection (a) (including an extension period
13 under this subsection) may be extended by an agreement
14 entered into by the Secretary and the partnership before
15 the expiration of such period.

16 “(c) SPECIAL RULE IN CASE OF FRAUD, ETC.—

17 “(1) FALSE RETURN.—In the case of a false or
18 fraudulent partnership return with intent to evade
19 tax, the adjustment may be made at any time.

20 “(2) SUBSTANTIAL OMISSION OF INCOME.—If
21 any partnership omits from gross income an amount
22 properly includible therein which is in excess of 25
23 percent of the amount of gross income stated in its
24 return, subsection (a) shall be applied by substitut-
25 ing ‘6 years’ for ‘3 years’.

1 “(3) NO RETURN.—In the case of a failure by
2 a partnership to file a return for any taxable year,
3 the adjustment may be made at any time.

“(4) RETURN FILED BY SECRETARY.—For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

9 “(d) SUSPENSION WHEN SECRETARY MAILS NOTICE
10 OF ADJUSTMENT.—If notice of a partnership adjustment
11 with respect to any taxable year is mailed to the partner-
12 ship, the running of the period specified in subsection (a)
13 (as modified by the other provisions of this section) shall
14 be suspended—

15 “(1) for the period during which an action may
16 be brought under section 6247 (and, if a petition is
17 filed under section 6247 with respect to such notice,
18 until the decision of the court becomes final), and

19 “(2) for 1 year thereafter.

20 **“Subpart B—Claims for Adjustments by Partnership**

“Sec. 6251. Administrative adjustment requests.

“Sec. 6252. Judicial review where administrative adjustment request is not allowed in full.

21 **“SEC. 6251. ADMINISTRATIVE ADJUSTMENT REQUESTS.**

22 “(a) GENERAL RULE.—A partnership may file a re-
23 quest for an administrative adjustment of partnership

1 items for any partnership taxable year at any time which
2 is—

3 “(1) within 3 years after the later of—

4 “(A) the date on which the partnership re-
5 turn for such year is filed, or

6 “(B) the last day for filing the partnership
7 return for such year (determined without re-
8 gard to extensions), and

9 “(2) before the mailing to the partnership of a
10 notice of a partnership adjustment with respect to
11 such taxable year.

12 “(b) SECRETARIAL ACTION.—If a partnership files
13 an administrative adjustment request under subsection
14 (a), the Secretary may allow any part of the requested
15 adjustments.

16 “(c) SPECIAL RULE IN CASE OF EXTENSION UNDER
17 SECTION 6248.—If the period described in section
18 6248(a) is extended pursuant to an agreement under sec-
19 tion 6248(b), the period prescribed by subsection (a)(1)
20 shall not expire before the date 6 months after the expira-
21 tion of the extension under section 6248(b).

1 **“SEC. 6252. JUDICIAL REVIEW WHERE ADMINISTRATIVE**
2 **ADJUSTMENT REQUEST IS NOT ALLOWED IN**
3 **FULL.**

4 “(a) IN GENERAL.—If any part of an administrative
5 adjustment request filed under section 6251 is not allowed
6 by the Secretary, the partnership may file a petition for
7 an adjustment with respect to the partnership items to
8 which such part of the request relates with—

9 “(1) the Tax Court,

10 “(2) the district court of the United States for
11 the district in which the principal place of business
12 of the partnership is located, or

13 “(3) the Claims Court.

14 “(b) PERIOD FOR FILING PETITION.—A petition may
15 be filed under subsection (a) with respect to partnership
16 items for a partnership taxable year only—

17 “(1) after the expiration of 6 months from the
18 date of filing of the request under section 6251, and

19 “(2) before the date which is 2 years after the
20 date of such request.

21 The 2-year period set forth in paragraph (2) shall be ex-
22 tended for such period as may be agreed upon in writing
23 by the partnership and the Secretary.

24 “(c) COORDINATION WITH SUBPART A.—

25 “(1) NOTICE OF PARTNERSHIP ADJUSTMENT
26 BEFORE FILING OF PETITION.—No petition may be

1 filed under this section after the Secretary mails to
2 the partnership a notice of a partnership adjustment
3 for the partnership taxable year to which the request
4 under section 6251 relates.

5 “(2) NOTICE OF PARTNERSHIP ADJUSTMENT
6 AFTER FILING BUT BEFORE HEARING OF PETI-
7 TION.—If the Secretary mails to the partnership a
8 notice of a partnership adjustment for the partner-
9 ship taxable year to which the request under section
10 6251 relates after the filing of a petition under this
11 subsection but before the hearing of such petition,
12 such petition shall be treated as an action brought
13 under section 6247 with respect to such notice, ex-
14 cept that subsection (b) of section 6247 shall not
15 apply.

16 “(3) NOTICE MUST BE BEFORE EXPIRATION OF
17 STATUTE OF LIMITATIONS.—A notice of a partner-
18 ship adjustment for the partnership taxable year
19 shall be taken into account under paragraphs (1)
20 and (2) only if such notice is mailed before the expi-
21 ration of the period prescribed by section 6248 for
22 making adjustments to partnership items for such
23 taxable year.

24 “(d) SCOPE OF JUDICIAL REVIEW.—Except in the
25 case described in paragraph (2) of subsection (c), a court

1 with which a petition is filed in accordance with this sec-
 2 tion shall have jurisdiction to determine only those part-
 3 nership items to which the part of the request under sec-
 4 tion 6251 not allowed by the Secretary relates and those
 5 items with respect to which the Secretary asserts adjust-
 6 ments as offsets to the adjustments requested by the part-
 7 nership.

8 “(e) DETERMINATION OF COURT REVIEWABLE.—
 9 Any determination by a court under this subsection shall
 10 have the force and effect of a decision of the Tax Court
 11 or a final judgment or decree of the district court or the
 12 Claims Court, as the case may be, and shall be reviewable
 13 as such. The date of any such determination shall be treat-
 14 ed as being the date of the court’s order entering the deci-
 15 sion.

16 **“PART III—DEFINITIONS AND SPECIAL RULES**

“Sec. 6255. Definitions and special rules.

17 **“SEC. 6255. DEFINITIONS AND SPECIAL RULES.**

18 “(a) DEFINITIONS.—For purposes of this sub-
 19 chapter—

20 “(1) LARGE PARTNERSHIP.—The term ‘large
 21 partnership’ has the meaning given to such term by
 22 section 775 without regard to section 776(a).

1 “(2) PARTNERSHIP ITEM.—The term ‘partner-
2 ship item’ has the meaning given to such term by
3 section 6231(a)(3).

4 “(b) PARTNERS BOUND BY ACTIONS OF PARTNER-
5 SHIP, ETC.—

6 “(1) DESIGNATION OF PARTNER.—Each large
7 partnership shall designate (in the manner pre-
8 scribed by the Secretary) a partner (or other person)
9 who shall have the sole authority to act on behalf of
10 such partnership under this subchapter. In any case
11 in which such a designation is not in effect, the Sec-
12 retary may select any partner as the partner with
13 such authority.

14 “(2) BINDING EFFECT.—A large partnership
15 and all partners of such partnership shall be
16 bound—

17 “(A) by actions taken under this sub-
18 chapter by the partnership, and

19 “(B) by any decision in a proceeding
20 brought under this subchapter.

21 “(c) PARTNERSHIPS HAVING PRINCIPAL PLACE OF
22 BUSINESS OUTSIDE THE UNITED STATES.—For purposes
23 of sections 6247 and 6252, a principal place of business
24 located outside the United States shall be treated as lo-
25 cated in the District of Columbia.

1 “(d) TREATMENT WHERE PARTNERSHIP CEASES TO
2 EXIST.—If a partnership ceases to exist before a partner-
3 ship adjustment under this subchapter takes effect, such
4 adjustment shall be taken into account by the former part-
5 ners of such partnership under regulations prescribed by
6 the Secretary.

7 “(e) DATE DECISION BECOMES FINAL.—For pur-
8 poses of this subchapter, the principles of section 7481(a)
9 shall be applied in determining the date on which a deci-
10 sion of a district court or the Claims Court becomes final.

11 “(f) PARTNERSHIPS IN CASES UNDER TITLE 11 OF
12 THE UNITED STATES CODE.—The running of any period
13 of limitations provided in this subchapter on making a
14 partnership adjustment (or provided by section 6501 or
15 6502 on the assessment or collection of any amount re-
16 quired to be paid under section 6242) shall, in a case
17 under title 11 of the United States Code, be suspended
18 during the period during which the Secretary is prohibited
19 by reason of such case from making the adjustment (or
20 assessment or collection) and—

21 “(1) for adjustment or assessment, 60 days
22 thereafter, and

23 “(2) for collection, 6 months thereafter.

1 “(g) REGULATIONS.—The Secretary shall prescribe
 2 such regulations as may be necessary to carry out the pro-
 3 visions of this subchapter, including regulations—

4 “(1) to prevent abuse through manipulation of
 5 the provisions of this subchapter, and

6 “(2) providing that this subchapter shall not
 7 apply to any case described in section 6231(c)(1) (or
 8 the regulations prescribed thereunder) where the ap-
 9 plication of this subchapter to such a case would
 10 interfere with the effective and efficient enforcement
 11 of this title.

12 In any case to which this subchapter does not apply by
 13 reason of paragraph (2), rules similar to the rules of sec-
 14 tions 6229(f) and 6255(f) shall apply.”

15 (b) CLERICAL AMENDMENT.—The table of sub-
 16 chapters for chapter 63 is amended by adding at the end
 17 thereof the following new item:

“SUBCHAPTER D. Treatment of large partnerships.”

18 **SEC. 303. DUE DATE FOR FURNISHING INFORMATION TO**
 19 **PARTNERS OF LARGE PARTNERSHIPS.**

20 (a) GENERAL RULE.—Subsection (b) of section 6031
 21 (relating to copies to partners) is amended by adding at
 22 the end thereof the following new sentence: “In the case
 23 of a large partnership (as defined in sections 775 and
 24 776(a)), such information shall be furnished on or before

1 the first March 15 following the close of such taxable
2 year.”

3 (b) TREATMENT AS INFORMATION RETURN.—Sec-
4 tion 6724 is amended by adding at the end thereof the
5 following new subsection:

6 “(e) SPECIAL RULE FOR CERTAIN PARTNERSHIP RE-
7 TURNS.—If any partnership return under section 6031(a)
8 is required under section 6011(e) to be filed on magnetic
9 media or in other machine-readable form, for purposes of
10 this part, each schedule required to be included with such
11 return with respect to each partner shall be treated as a
12 separate information return.”

13 **SEC. 304. RETURNS MAY BE REQUIRED ON MAGNETIC**
14 **MEDIA.**

15 Paragraph (2) of section 6011(e) (relating to returns
16 on magnetic media) is amended by adding at the end
17 thereof the following new sentence:

18 “The preceding sentence shall not apply in the case
19 of the partnership return of a large partnership (as
20 defined in sections 775 and 776(a)) or any other
21 partnership with 250 or more partners.”

22 **SEC. 305. TREATMENT OF PARTNERSHIP ITEMS OF INDIVIDUAL RETIREMENT ACCOUNTS.**
23

24 Subsection (b) of section 6012 is amended by adding
25 at the end thereof the following new paragraph:

1 “(6) IRA SHARE OF PARTNERSHIP INCOME.—

2 In the case of a trust which is exempt from taxation
3 under section 408(e), for purposes of this section,
4 the trust’s distributive share of items of gross in-
5 come and gain of any partnership to which sub-
6 chapter C or D of chapter 63 applies shall be treat-
7 ed as equal to the trust’s distributive share of the
8 taxable income of such partnership.”

9 **SEC. 306. EFFECTIVE DATE.**

10 (a) GENERAL RULE.—Except as otherwise provided
11 in this section, the amendments made by this subtitle shall
12 apply to partnership taxable years ending on or after De-
13 cember 31, 1993.

14 (b) SPECIAL RULE FOR SECTION 304.—In the case
15 of a partnership which is not a large partnership (as de-
16 fined in sections 775 and 776(a) of the Internal Revenue
17 Code of 1986, as added by this subtitle), the amendment
18 made by section 304 shall only apply to partnership tax-
19 able years ending on or after December 31, 1998.

20 (c) SPECIAL RULE FOR SECTION 305.—The amend-
21 ment made by section 305 shall apply to taxable years be-
22 ginning after December 31, 1992.

1 **Subtitle B—Provisions Related to**
 2 **TEFRA Partnership Proceedings**

3 **SEC. 311. TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.**
 4

5 (a) IN GENERAL.—Subchapter C of chapter 63 is
 6 amended by adding at the end thereof the following new
 7 section:

8 **“SEC. 6234. DECLARATORY JUDGMENT RELATING TO**
 9 **TREATMENT OF ITEMS OTHER THAN PART-**
 10 **NERSHIP ITEMS WITH RESPECT TO AN**
 11 **OVERSHELTERED RETURN.**

12 “(a) GENERAL RULE.—If—

13 “(1) a taxpayer files an oversheltered return for
 14 a taxable year,

15 “(2) the Secretary makes a determination with
 16 respect to the treatment of items (other than part-
 17 nership items) of such taxpayer for such taxable
 18 year, and

19 “(3) the adjustments resulting from such deter-
 20 mination do not give rise to a deficiency (as defined
 21 in section 6211) but would give rise to a deficiency
 22 if there were no net loss from partnership items,
 23 the Secretary is authorized to send a notice of adjustment
 24 reflecting such determination to the taxpayer by certified
 25 or registered mail.

1 “(b) OVERSHELTERED RETURN.—For purposes of
2 this section, the term ‘oversheltered return’ means an in-
3 come tax return which—

4 “(1) shows no taxable income for the taxable
5 year, and

6 “(2) shows a net loss from partnership items.

7 “(c) JUDICIAL REVIEW IN THE TAX COURT.—Within
8 90 days, or 150 days if the notice is addressed to a person
9 outside the United States, after the day on which the no-
10 tice of adjustment authorized in subsection (a) is mailed
11 to the taxpayer, the taxpayer may file a petition with the
12 Tax Court for redetermination of the adjustments. Upon
13 the filing of such a petition, the Tax Court shall have ju-
14 risdiction to make a declaration with respect to all items
15 (other than partnership items and affected items which
16 require partner level determinations as described in sec-
17 tion 6230(a)(2)(A)(i)) for the taxable year to which the
18 notice of adjustment relates, in accordance with the prin-
19 ciples of section 6214(a). Any such declaration shall have
20 the force and effect of a decision of the Tax Court and
21 shall be reviewable as such.

22 “(d) FAILURE TO FILE PETITION.—

23 “(1) IN GENERAL.—Except as provided in para-
24 graph (2), if the taxpayer does not file a petition
25 with the Tax Court within the time prescribed in

1 subsection (c), the determination of the Secretary
2 set forth in the notice of adjustment that was mailed
3 to the taxpayer shall be deemed to be correct.

4 “(2) EXCEPTION.—Paragraph (1) shall not
5 apply after the date that the taxpayer—

6 “(A) files a petition with the Tax Court
7 within the time prescribed in subsection (c)
8 with respect to a subsequent notice of adjust-
9 ment relating to the same taxable year, or

10 “(B) files a claim for refund of an overpay-
11 ment of tax under section 6511 for the taxable
12 year involved.

13 If a claim for refund is filed by the taxpayer, then
14 solely for purposes of determining (for the taxable
15 year involved) the amount of any computational ad-
16 justment in connection with a partnership proceed-
17 ing under this subchapter (other than under this
18 section) or the amount of any deficiency attributable
19 to affected items in a proceeding under section
20 6230(a)(2), the items that are the subject of the no-
21 tice of adjustment shall be presumed to have been
22 correctly reported on the taxpayer’s return during
23 the pendency of the refund claim (and, if within the
24 time prescribed by section 6532 the taxpayer com-
25 mences a civil action for refund under section 7422,

1 until the decision in the refund action becomes
2 final).

3 “(e) LIMITATIONS PERIOD.—

4 “(1) IN GENERAL.—Any notice to a taxpayer
5 under subsection (a) shall be mailed before the expi-
6 ration of the period prescribed by section 6501 (re-
7 lating to the period of limitations on assessment).

8 “(2) SUSPENSION WHEN SECRETARY MAILES NO-
9 TICE OF ADJUSTMENT.—If the Secretary mails a no-
10 tice of adjustment to the taxpayer for a taxable year,
11 the period of limitations on the making of assess-
12 ments shall be suspended for the period during
13 which the Secretary is prohibited from making the
14 assessment (and, in any event, if a proceeding in re-
15 spect of the notice of adjustment is placed on the
16 docket of the Tax Court, until the decision of the
17 Tax Court becomes final), and for 60 days there-
18 after.

19 “(3) RESTRICTIONS ON ASSESSMENT.—Except
20 as otherwise provided in section 6851, 6852, or
21 6861, no assessment of a deficiency with respect to
22 any tax imposed by subtitle A attributable to any
23 item (other than a partnership item or any item af-
24 fected by a partnership item) shall be made—

1 “(A) until the expiration of the applicable
2 90-day or 150-day period set forth in sub-
3 section (c) for filing a petition with the Tax
4 Court, or

5 “(B) if a petition has been filed with the
6 Tax Court, until the decision of the Tax Court
7 has become final.

8 “(f) FURTHER NOTICES OF ADJUSTMENT RE-
9 STRICTED.—If the Secretary mails a notice of adjustment
10 to the taxpayer for a taxable year and the taxpayer files
11 a petition with the Tax Court within the time prescribed
12 in subsection (c), the Secretary may not mail another such
13 notice to the taxpayer with respect to the same taxable
14 year in the absence of a showing of fraud, malfeasance,
15 or misrepresentation of a material fact.

16 “(g) COORDINATION WITH OTHER PROCEEDINGS
17 UNDER THIS SUBCHAPTER.—

18 “(1) IN GENERAL.—The treatment of any item
19 that has been determined pursuant to subsection (c)
20 or (d) shall be taken into account in determining the
21 amount of any computational adjustment that is
22 made in connection with a partnership proceeding
23 under this subchapter (other than under this sec-
24 tion), or the amount of any deficiency attributable to
25 affected items in a proceeding under section

1 6230(a)(2), for the taxable year involved. Notwith-
2 standing any other law or rule of law pertaining to
3 the period of limitations on the making of assess-
4 ments, for purposes of the preceding sentence, any
5 adjustment made in accordance with this section
6 shall be taken into account regardless of whether
7 any assessment has been made with respect to such
8 adjustment.

9 “(2) SPECIAL RULE IN CASE OF COMPUTA-
10 TIONAL ADJUSTMENT.—In the case of a computa-
11 tional adjustment that is made in connection with a
12 partnership proceeding under this subchapter (other
13 than under this section), the provisions of paragraph
14 (1) shall apply only if the computational adjustment
15 is made within the period prescribed by section 6229
16 for assessing any tax under subtitle A which is at-
17 tributable to any partnership item or affected item
18 for the taxable year involved.

19 “(3) CONVERSION TO DEFICIENCY PROCEED-
20 ING.—If—

21 “(A) after the notice referred to in sub-
22 section (a) is mailed to a taxpayer for a taxable
23 year but before the expiration of the period for
24 filing a petition with the Tax Court under sub-
25 section (c) (or, if a petition is filed with the Tax

1 Court, before the Tax Court makes a declara-
2 tion for that taxable year), the treatment of any
3 partnership item for the taxable year is finally
4 determined, or any such item ceases to be a
5 partnership item pursuant to section 6231(b),
6 and

7 “(B) as a result of that final determination
8 or cessation, a deficiency can be determined
9 with respect to the items that are the subject
10 of the notice of adjustment,

11 the notice of adjustment shall be treated as a notice
12 of deficiency under section 6212 and any petition
13 filed in respect of the notice shall be treated as an
14 action brought under section 6213.

15 “(4) FINALLY DETERMINED.—For purposes of
16 this subsection, the treatment of partnership items
17 shall be treated as finally determined if—

18 “(A) the Secretary enters into a settlement
19 agreement (within the meaning of section 6224)
20 with the taxpayer regarding such items,

21 “(B) a notice of final partnership adminis-
22 trative adjustment has been issued and—

23 “(i) no petition has been filed under
24 section 6226 and the time for doing so has
25 expired, or

1 “(ii) a petition has been filed under
2 section 6226 and the decision of the court
3 has become final, or

4 “(C) the period within which any tax at-
5 tributable to such items may be assessed
6 against the taxpayer has expired.

7 “(h) SPECIAL RULES IF SECRETARY INCORRECTLY
8 DETERMINES APPLICABLE PROCEDURE.—

9 “(1) SPECIAL RULE IF SECRETARY ERRO-
10 NEOUSLY MAILES NOTICE OF ADJUSTMENT.—If the
11 Secretary erroneously determines that subchapter B
12 does not apply to a taxable year of a taxpayer and
13 consistent with that determination timely mails a no-
14 tice of adjustment to the taxpayer pursuant to sub-
15 section (a) of this section, the notice of adjustment
16 shall be treated as a notice of deficiency under sec-
17 tion 6212 and any petition that is filed in respect of
18 the notice shall be treated as an action brought
19 under section 6213.

20 “(2) SPECIAL RULE IF SECRETARY ERRO-
21 NEOUSLY MAILES NOTICE OF DEFICIENCY.—If the
22 Secretary erroneously determines that subchapter B
23 applies to a taxable year of a taxpayer and consist-
24 ent with that determination timely mails a notice of
25 deficiency to the taxpayer pursuant to section 6212,

1 the notice of deficiency shall be treated as a notice
 2 of adjustment under subsection (a) and any petition
 3 that is filed in respect of the notice shall be treated
 4 as an action brought under subsection (c).”

5 (b) TREATMENT OF PARTNERSHIP ITEMS IN DEFICI-
 6 CIENCY PROCEEDINGS.—Section 6211 (defining defi-
 7 ciency) is amended by adding at the end thereof the follow-
 8 ing new subsection:

9 “(c) COORDINATION WITH SUBCHAPTER C.—In de-
 10 termining the amount of any deficiency for purposes of
 11 this subchapter, adjustments to partnership items shall be
 12 made only as provided in subchapter C.”

13 (c) CLERICAL AMENDMENT.—The table of sections
 14 for subchapter C of chapter 63 is amended by adding at
 15 the end thereof the following new item:

“Sec. 6234. Declaratory judgment relating to treatment of items
 other than partnership items with respect to an
 oversheltered return.”

16 (d) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply to partnership taxable years ending
 18 after the date of the enactment of this Act.

19 **SEC. 312. PARTNERSHIP RETURN TO BE DETERMINATIVE**
 20 **OF AUDIT PROCEDURES TO BE FOLLOWED.**

21 (a) IN GENERAL.—Section 6231 (relating to defini-
 22 tions and special rules) is amended by adding at the end
 23 thereof the following new subsection:

1 “(g) PARTNERSHIP RETURN TO BE DETERMINATIVE
2 OF WHETHER SUBCHAPTER APPLIES.—

3 “(1) DETERMINATION THAT SUBCHAPTER AP-
4 PLIES.—If, on the basis of a partnership return for
5 a taxable year, the Secretary reasonably determines
6 that this subchapter applies to such partnership for
7 such year but such determination is erroneous, then
8 the provisions of this subchapter are hereby ex-
9 tended to such partnership (and its items) for such
10 taxable year and to partners of such partnership.

11 “(2) DETERMINATION THAT SUBCHAPTER DOES
12 NOT APPLY.—If, on the basis of a partnership re-
13 turn for a taxable year, the Secretary reasonably de-
14 termines that this subchapter does not apply to such
15 partnership for such year but such determination is
16 erroneous, then the provisions of this subchapter
17 shall not apply to such partnership (and its items)
18 for such taxable year or to partners of such partner-
19 ship.”

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to partnership taxable years ending
22 after the date of the enactment of this Act.

1 **SEC. 313. PROVISIONS RELATING TO STATUTE OF LIMITA-**
2 **TIONS.**

3 (a) **SUSPENSION OF STATUTE WHERE UNTIMELY**
4 **PETITION FILED.**—Paragraph (1) of section 6229(d) (re-
5 lating to suspension where Secretary makes administrative
6 adjustment) is amended by striking all that follows “sec-
7 tion 6226” and inserting the following: “(and, if a petition
8 is filed under section 6226 with respect to such adminis-
9 trative adjustment, until the decision of the court becomes
10 final), and”.

11 (b) **SUSPENSION OF STATUTE DURING BANKRUPTCY**
12 **PROCEEDING.**—Section 6229 is amended by adding at the
13 end thereof the following new subsection:

14 “(h) **SUSPENSION DURING PENDENCY OF BANK-**
15 **RUPTCY PROCEEDING.**—If a petition is filed naming a
16 partner as a debtor in a bankruptcy proceeding under title
17 11 of the United States Code, the running of the period
18 of limitations provided in this section with respect to such
19 partner shall be suspended—

20 “(1) for the period during which the Secretary
21 is prohibited by reason of such bankruptcy proceed-
22 ing from making an assessment, and

23 “(2) for 60 days thereafter.”

24 (c) **TAX MATTERS PARTNER IN BANKRUPTCY.**—Sec-
25 tion 6229(b) is amended by redesignating paragraph (2)

1 as paragraph (3) and by inserting after paragraph (1) the
2 following new paragraph:

3 “(2) SPECIAL RULE WITH RESPECT TO DEBT-
4 ORS IN TITLE 11 CASES.—Notwithstanding any other
5 law or rule of law, if an agreement is entered into
6 under paragraph (1)(B) and the agreement is signed
7 by a person who would be the tax matters partner
8 but for the fact that, at the time that the agreement
9 is executed, the person is a debtor in a bankruptcy
10 proceeding under title 11 of the United States Code,
11 such agreement shall be binding on all partners in
12 the partnership unless the Secretary has been noti-
13 fied of the bankruptcy proceeding in accordance with
14 regulations prescribed by the Secretary.”

15 (d) EFFECTIVE DATES.—

16 (1) SUBSECTIONS (a) AND (b).—The amend-
17 ments made by subsections (a) and (b) shall apply
18 to partnership taxable years with respect to which
19 the period under section 6229 of the Internal Reve-
20 nue Code of 1986 for assessing tax has not expired
21 on or before the date of the enactment of this Act.

22 (2) SUBSECTION (c).—The amendment made
23 by subsection (c) shall apply to agreements entered
24 into after the date of the enactment of this Act.

1 **SEC. 314. EXPANSION OF SMALL PARTNERSHIP EXCEPTION.**

2 (a) IN GENERAL.—Clause (i) of section
3 6231(a)(1)(B) (relating to exception for small partner-
4 ships) is amended to read as follows:

5 “(i) IN GENERAL.—The term ‘part-
6 nership’ shall not include any partnership
7 having 10 or fewer partners each of whom
8 is an individual (other than a nonresident
9 alien), a C corporation, or an estate of a
10 deceased partner. For purposes of the pre-
11 ceding sentence, a husband and wife (and
12 their estates) shall be treated as 1 part-
13 ner.”

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to partnership taxable years ending
16 after the date of the enactment of this Act.

17 **SEC. 315. EXCLUSION OF PARTIAL SETTLEMENTS FROM 1**
18 **YEAR LIMITATION ON ASSESSMENT.**

19 (a) IN GENERAL.—Subsection (f) of section 6229 (re-
20 lating to items becoming nonpartnership items) is amend-
21 ed—

22 (1) by striking “(f) ITEMS BECOMING
23 NONPARTNERSHIP ITEMS.—If ” and inserting the
24 following:

25 “(f) SPECIAL RULES.—

1 “(1) ITEMS BECOMING NONPARTNERSHIP
2 ITEMS.—If ”,

3 (2) by moving the text of such subsection 2 ems
4 to the right, and

5 (3) by adding at the end thereof the following
6 new paragraph:

7 “(2) SPECIAL RULE FOR PARTIAL SETTLEMENT
8 AGREEMENTS.—If a partner enters into a settlement
9 agreement with the Secretary with respect to the
10 treatment of some of the partnership items in dis-
11 pute for a partnership taxable year but other part-
12 nership items for such year remain in dispute, the
13 period of limitations for assessing any tax attrib-
14 utable to the settled items shall be determined as if
15 such agreement had not been entered into.”

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to settlements entered into after
18 the date of the enactment of this Act.

19 **SEC. 316. EXTENSION OF TIME FOR FILING A REQUEST**
20 **FOR ADMINISTRATIVE ADJUSTMENT.**

21 (a) IN GENERAL.—Section 6227 (relating to admin-
22 istrative adjustment requests) is amended by redesignat-
23 ing subsections (b) and (c) as subsections (c) and (d), re-
24 spectively, and by inserting after subsection (a) the follow-
25 ing new subsection:

1 “(b) SPECIAL RULE IN CASE OF EXTENSION OF PE-
 2 RIOD OF LIMITATIONS UNDER SECTION 6229.—The pe-
 3 riod prescribed by subsection (a)(1) for filing of a request
 4 for an administrative adjustment shall be extended—

5 “(1) for the period within which an assessment
 6 may be made pursuant to an agreement (or any ex-
 7 tension thereof) under section 6229(b), and

8 “(2) for 6 months thereafter.”

9 (b) EFFECTIVE DATE.—The amendment made by
 10 this section shall take effect as if included in the amend-
 11 ments made by section 402 of the Tax Equity and Fiscal
 12 Responsibility Act of 1982.

13 **SEC. 317. AVAILABILITY OF INNOCENT SPOUSE RELIEF IN**
 14 **CONTEXT OF PARTNERSHIP PROCEEDINGS.**

15 (a) IN GENERAL.—Subsection (a) of section 6230 is
 16 amended by adding at the end thereof the following new
 17 paragraph:

18 “(3) SPECIAL RULE IN CASE OF ASSERTION BY
 19 PARTNER’S SPOUSE OF INNOCENT SPOUSE RE-
 20 LIEF.—

21 “(A) Notwithstanding section 6404(b), if
 22 the spouse of a partner asserts that section
 23 6013(e) applies with respect to a liability that
 24 is attributable to any adjustment to a partner-
 25 ship item, then such spouse may file with the

1 Secretary within 60 days after the notice of
2 computational adjustment is mailed to the
3 spouse a request for abatement of the assess-
4 ment specified in such notice. Upon receipt of
5 such request, the Secretary shall abate the as-
6 sessment. Any reassessment of the tax with re-
7 spect to which an abatement is made under this
8 subparagraph shall be subject to the deficiency
9 procedures prescribed by subchapter B. The pe-
10 riod for making any such reassessment shall
11 not expire before the expiration of 60 days after
12 the date of such abatement.

13 “(B) If the spouse files a petition with the
14 Tax Court pursuant to section 6213 with re-
15 spect to the request for abatement described in
16 subparagraph (A), the Tax Court shall only
17 have jurisdiction pursuant to this section to de-
18 termine whether the requirements of section
19 6013(e) have been satisfied. For purposes of
20 such determination, the treatment of partner-
21 ship items under the settlement, the final part-
22 nership administrative adjustment, or the deci-
23 sion of the court (whichever is appropriate) that
24 gave rise to the liability in question shall be
25 conclusive.

1 “(C) Rules similar to the rules contained
2 in subparagraphs (B) and (C) of paragraph (2)
3 shall apply for purposes of this paragraph.”

4 (b) CLAIMS FOR REFUND.—Subsection (c) of section
5 6230 is amended by adding at the end thereof the follow-
6 ing new paragraph:

7 “(5) RULES FOR SEEKING INNOCENT SPOUSE
8 RELIEF.—

9 “(A) IN GENERAL.—The spouse of a part-
10 ner may file a claim for refund on the ground
11 that the Secretary failed to relieve the spouse
12 under section 6013(e) from a liability that is at-
13 tributable to an adjustment to a partnership
14 item.

15 “(B) TIME FOR FILING CLAIM.—Any claim
16 under subparagraph (A) shall be filed within 6
17 months after the day on which the Secretary
18 mails to the spouse the notice of computational
19 adjustment referred to in subsection (a)(3)(A).

20 “(C) SUIT IF CLAIM NOT ALLOWED.—If
21 the claim under subparagraph (B) is not al-
22 lowed, the spouse may bring suit with respect
23 to the claim within the period specified in para-
24 graph (3).

1 “(D) PRIOR DETERMINATIONS ARE BIND-
2 ING.—For purposes of any claim or suit under
3 this paragraph, the treatment of partnership
4 items under the settlement, the final partner-
5 ship administrative adjustment, or the decision
6 of the court (whichever is appropriate) that
7 gave rise to the liability in question shall be
8 conclusive.”

9 (c) TECHNICAL AMENDMENTS.—

10 (1) Paragraph (1) of section 6230(a) is amend-
11 ed by striking “paragraph (2)” and inserting “para-
12 graph (2) or (3)”.

13 (2) Subsection (a) of section 6503 is amended
14 by striking “section 6230(a)(2)(A)” and inserting
15 “paragraph (2)(A) or (3) of section 6230(a)”.

16 (d) EFFECTIVE DATE.—The amendments made by
17 this section shall take effect as if included in the amend-
18 ments made by section 402 of the Tax Equity and Fiscal
19 Responsibility Act of 1982.

20 **SEC. 318. DETERMINATION OF PENALTIES AT PARTNER-**
21 **SHIP LEVEL.**

22 (a) IN GENERAL.—Section 6221 (relating to tax
23 treatment determined at partnership level) is amended by
24 striking “item” and inserting “item (and the applicability

1 of any penalty, addition to tax, or additional amount which
2 relates to an adjustment to a partnership item)’’.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Subsection (f) of section 6226 is amended—

5 (A) by striking ‘‘relates and’’ and inserting
6 ‘‘relates,’’, and

7 (B) by inserting before the period ‘‘, and
8 the applicability of any penalty, addition to tax,
9 or additional amount which relates to an ad-
10 justment to a partnership item’’.

11 (2) Clause (i) of section 6230(a)(2)(A) is
12 amended to read as follows:

13 ‘‘(i) affected items which require part-
14 ner level determinations (other than pen-
15 alties, additions to tax, and additional
16 amounts that relate to adjustments to
17 partnership items), or’’.

18 (3)(A) Subparagraph (A) of section 6230(a)(3),
19 as added by section 317, is amended by inserting
20 ‘‘(including any liability for any penalty, addition to
21 tax, or additional amount relating to such adjust-
22 ment)’’ after ‘‘partnership item’’.

23 (B) Subparagraph (B) of such section is
24 amended by inserting ‘‘(and the applicability of any

1 penalties, additions to tax, or additional amounts)”
2 after “partnership items”.

3 (C) Subparagraph (A) of section 6230(c)(5), as
4 added by section 317, is amended by inserting before
5 the period “(including any liability for any penalties,
6 additions to tax, or additional amounts relating to
7 such adjustment)”.

8 (D) Subparagraph (D) of section 6230(c)(5), as
9 added by section 317, is amended by inserting “(and
10 the applicability of any penalties, additions to tax, or
11 additional amounts)” after “partnership items”.

12 (4) Paragraph (1) of section 6230(c) is amend-
13 ed by striking “or” at the end of subparagraph (A),
14 by striking the period at the end of subparagraph
15 (B) and inserting “, or”, and by adding at the end
16 thereof the following new subparagraph:

17 “(C) the Secretary erroneously imposed
18 any penalty, addition to tax, or additional
19 amount which relates to an adjustment to a
20 partnership item.”

21 (5) So much of subparagraph (A) of section
22 6230(c)(2) as precedes “shall be filed” is amended
23 to read as follows:

1 “(A) UNDER PARAGRAPH (1) (A) OR (C).—
2 Any claim under subparagraph (A) or (C) of
3 paragraph (1)”.

4 (6) Paragraph (4) of section 6230(c) is amend-
5 ed by adding at the end thereof the following: “In
6 addition, the determination under the final partner-
7 ship administrative adjustment or under the decision
8 of the court (whichever is appropriate) concerning
9 the applicability of any penalty, addition to tax, or
10 additional amount which relates to an adjustment to
11 a partnership item shall also be conclusive.

12 Notwithstanding the preceding sentence, the partner
13 shall be allowed to assert any partner level defenses
14 that may apply or to challenge the amount of the
15 computational adjustment.”

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to partnership taxable years ending
18 after the date of the enactment of this Act.

19 **SEC. 319. PROVISIONS RELATING TO COURT JURISDIC-**
20 **TION, ETC.**

21 (a) TAX COURT JURISDICTION TO ENJOIN PRE-
22 MATURE ASSESSMENTS OF DEFICIENCIES ATTRIBUTABLE
23 TO PARTNERSHIP ITEMS.—Subsection (b) of section 6225
24 is amended by striking “the proper court.” and inserting
25 “the proper court, including the Tax Court. The Tax

1 Court shall have no jurisdiction to enjoin any action or
2 proceeding under this subsection unless a timely petition
3 for a readjustment of the partnership items for the taxable
4 year has been filed and then only in respect of the adjust-
5 ments that are the subject of such petition.”

6 (b) JURISDICTION TO CONSIDER STATUTE OF LIMITATIONS WITH RESPECT TO PARTNERS.—Paragraph (1)
7 of section 6226(d) is amended by adding at the end there-
8 of the following new sentence:

10 “Notwithstanding subparagraph (B), any person
11 treated under subsection (c) as a party to an action
12 shall be permitted to participate in such action (or
13 file a readjustment petition under subsection (b) or
14 paragraph (2) of this subsection) solely for the pur-
15 pose of asserting that the period of limitations for
16 assessing any tax attributable to partnership items
17 has expired with respect to such person, and the
18 court having jurisdiction of such action shall have
19 jurisdiction to consider such assertion.”

20 (c) TAX COURT JURISDICTION TO DETERMINE
21 OVERPAYMENTS ATTRIBUTABLE TO AFFECTED ITEMS.—

22 (1) Paragraph (6) of section 6230(d) is amend-
23 ed by striking “(or an affected item)”.

1 (2) Paragraph (3) of section 6512(b) is amend-
2 ed by adding at the end thereof the following new
3 sentence:

4 “In the case of a credit or refund relating to an af-
5 fected item (within the meaning of section
6 6231(a)(5)), the preceding sentence shall be applied
7 by substituting the periods under sections 6229 and
8 6230(d) for the periods under section 6511(b) (2),
9 (c), and (d).”

10 (d) VENUE ON APPEAL.—

11 (1) Paragraph (1) of section 7482(b) is amend-
12 ed by striking “or” at the end of subparagraph (D),
13 by striking the period at the end of subparagraph
14 (E) and inserting “, or”, and by inserting after sub-
15 paragraph (E) the following new subparagraph:

16 “(F) in the case of a petition under section
17 6234(c)—

18 “(i) the legal residence of the peti-
19 tioner if the petitioner is not a corporation,
20 and

21 “(ii) the place or office applicable
22 under subparagraph (B) if the petitioner is
23 a corporation.”

1 (2) The last sentence of section 7482(b) is
2 amended by striking “or 6228(a)” and inserting “,
3 6228(a), or 6234(c)”.

4 (e) OTHER PROVISIONS.—

5 (1) Subsection (c) of section 7459 is amended
6 by striking “or section 6228(a)” and inserting “,
7 6228(a), or 6234(c)”.

8 (2) Subsection (o) of section 6501 is amended
9 by adding at the end thereof the following new para-
10 graph:

11 “(3) For declaratory judgment relating to treat-
12 ment of items other than partnership items with re-
13 spect to an oversheltered return, see section 6234.”

14 (f) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to partnership taxable years ending
16 after the date of the enactment of this Act.

17 **SEC. 320. TREATMENT OF PREMATURE PETITIONS FILED**
18 **BY NOTICE PARTNERS OR 5-PERCENT**
19 **GROUPS.**

20 (a) IN GENERAL.—Subsection (b) of section 6226
21 (relating to judicial review of final partnership administra-
22 tive adjustments) is amended by redesignating paragraph
23 (5) as paragraph (6) and by inserting after paragraph (4)
24 the following new paragraph:

1 “(5) TREATMENT OF PREMATURE PETI-
2 TIONS.—If—

3 “(A) a petition for a readjustment of part-
4 nership items for the taxable year involved is
5 filed by a notice partner (or a 5-percent group)
6 during the 90-day period described in sub-
7 section (a), and

8 “(B) no action is brought under paragraph
9 (1) during the 60-day period described therein
10 with respect to such taxable year which is not
11 dismissed,

12 such petition shall be treated for purposes of para-
13 graph (1) as filed on the last day of such 60-day pe-
14 riod.”

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to petitions filed after the date of
17 the enactment of this Act.

18 **SEC. 321. BONDS IN CASE OF APPEALS FROM TEFRA PRO-**
19 **CEEDING.**

20 (a) IN GENERAL.—Subsection (b) of section 7485
21 (relating to bonds to stay assessment of collection) is
22 amended—

23 (1) by inserting “penalties,” after “any inter-
24 est,” and

1 (2) by striking “aggregate of such deficiencies”
2 and inserting “aggregate liability of the parties to
3 the action”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall take effect as if included in the amend-
6 ments made by section 402 of the Tax Equity and Fiscal
7 Responsibility Act of 1982.

8 **SEC. 322. SUSPENSION OF INTEREST WHERE DELAY IN**
9 **COMPUTATIONAL ADJUSTMENT RESULTING**
10 **FROM TEFRA SETTLEMENTS.**

11 (a) IN GENERAL.—Subsection (c) of section 6601
12 (relating to interest on underpayment, nonpayment, or ex-
13 tension of time for payment, of tax) is amended by adding
14 at the end thereof the following new sentence: “In the case
15 of a settlement under section 6224(c) which results in the
16 conversion of partnership items to nonpartnership items
17 pursuant to section 6231(b)(1)(C), the preceding sentence
18 shall apply to a computational adjustment resulting from
19 such settlement in the same manner as if such adjustment
20 were a deficiency and such settlement were a waiver re-
21 ferred to in the preceding sentence.”

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to adjustments with respect to
24 partnership taxable years beginning after the date of the
25 enactment of this Act.

1 **SEC. 323. SPECIAL RULES FOR ADMINISTRATIVE ADJUST-**
2 **MENT REQUESTS WITH RESPECT TO BAD**
3 **DEBTS OR WORTHLESS SECURITIES.**

4 (a) GENERAL RULE.—Section 6227 (relating to ad-
5 ministrative adjustment requests) is amended by adding
6 at the end thereof the following new subsection:

7 “(d) REQUESTS WITH RESPECT TO BAD DEBTS OR
8 WORTHLESS SECURITIES.—In the case of that portion of
9 any request for an administrative adjustment which re-
10 lates to the deductibility by the partnership under section
11 166 of a debt as a debt which became worthless, or under
12 section 165(g) of a loss from worthlessness of a security,
13 the period prescribed in subsection (a)(1) shall be 7 years
14 from the last day for filing the partnership return for the
15 year with respect to which such request is made (deter-
16 mined without regard to extensions).”

17 (b) EFFECTIVE DATE.—

18 (1) IN GENERAL.—The amendment made by
19 subsection (a) shall take effect as if included in the
20 amendments made by section 402 of the Tax Equity
21 and Fiscal Responsibility Act of 1982.

22 (2) TREATMENT OF REQUESTS FILED BEFORE
23 DATE OF ENACTMENT.—In the case of that portion
24 of any request (filed before the date of the enact-
25 ment of this Act) for an administrative adjustment
26 which relates to the deductibility of a debt as a debt

1 which became worthless or the deductibility of a loss
2 from the worthlessness of a security—

3 (A) paragraph (2) of section 6227(a) of
4 the Internal Revenue Code of 1986 shall not
5 apply,

6 (B) the period for filing a petition under
7 section 6228 of the Internal Revenue Code of
8 1986 with respect to such request shall not ex-
9 pire before the date 6 months after the date of
10 the enactment of this Act, and

11 (C) such a petition may be filed without
12 regard to whether there was a notice of the be-
13 ginning of an administrative proceeding or a
14 final partnership administrative adjustment.

15 **TITLE IV—FOREIGN PROVISIONS**

16 **Subtitle A—Simplification of Treat-** 17 **ment of Passive Foreign Cor-** 18 **porations**

19 **SEC. 401. REPEAL OF FOREIGN PERSONAL HOLDING COM-** 20 **PANY RULES AND FOREIGN INVESTMENT** 21 **COMPANY RULES.**

22 (a) GENERAL RULE.—The following provisions are
23 hereby repealed:

24 (1) Part III of subchapter G of chapter 1 (re-
25 lating to foreign personal holding companies).

1 (2) Section 1246 (relating to gain on foreign in-
2 vestment company stock).

3 (3) Section 1247 (relating to election by foreign
4 investment companies to distribute income cur-
5 rently).

6 (b) EXEMPTION OF FOREIGN CORPORATIONS FROM
7 ACCUMULATED EARNINGS TAX AND PERSONAL HOLDING
8 COMPANY RULES.—

9 (1) ACCUMULATED EARNINGS TAX.—Subsection
10 (b) of section 532 (relating to exceptions) is amend-
11 ed—

12 (A) by striking paragraph (2) and insert-
13 ing the following:

14 “(2) a foreign corporation, or”,

15 (B) by striking “, or” at the end of para-
16 graph (3) and inserting a period, and

17 (C) by striking paragraph (4).

18 (2) PERSONAL HOLDING COMPANY RULES.—
19 Subsection (c) of section 542 (relating to exceptions)
20 is amended—

21 (A) by striking paragraph (5) and insert-
22 ing the following:

23 “(5) a foreign corporation,”,

1 (B) by striking paragraphs (7) and (10)
2 and by redesignating paragraphs (8) and (9) as
3 paragraphs (7) and (8), respectively,

4 (C) by inserting “and” at the end of para-
5 graph (7) (as so redesignated), and

6 (D) by striking “; and” at the end of para-
7 graph (8) (as so redesignated) and inserting a
8 period.

9 (c) TREATMENT OF CERTAIN SERVICE CONTRACTS
10 UNDER SUBPART F.—

11 (1) Paragraph (1) of section 954(c) (defining
12 foreign personal holding company income) is amend-
13 ed by adding at the end thereof the following new
14 subparagraph:

15 “(F) PERSONAL SERVICE CONTRACTS.—

16 “(i) Amounts received under a con-
17 tract under which the corporation is to fur-
18 nish personal services, if some person other
19 than the corporation has the right to des-
20 ignate (by name or by description) the in-
21 dividual who is to perform the services, or
22 if the individual who is to perform the
23 services is designated (by name or by de-
24 scription) in the contract.

1 “(ii) Amounts received from the sale
2 or other disposition of such contract.

3 This subparagraph shall apply with respect to
4 amounts received for services under a particular
5 contract only if at some time during the taxable
6 year 25 percent or more in value of the out-
7 standing stock of the corporation is owned, di-
8 rectly or indirectly, by or for the individual who
9 has performed, is to perform, or may be des-
10 ignated (by name or by description) as the one
11 to perform, such services. For purposes of the
12 preceding sentence, the attribution rules of sec-
13 tion 544 shall apply, determined as if any ref-
14 erence to section 543(a)(7) were a reference to
15 this subparagraph.”

16 (2) Clause (iii) of section 904(d)(2)(A) is
17 amended by striking “and” at the end of subclause
18 (III), by striking the period at the end of subclause
19 (IV) and inserting “, and”, and by adding at the
20 end thereof the following new subclause:

21 “(V) any income described in section
22 954(c)(1)(F) (relating to personal service con-
23 tracts).”

1 **SEC. 402. REPLACEMENT FOR PASSIVE FOREIGN INVEST-**
 2 **MENT COMPANY RULES.**

3 (a) GENERAL RULE.—Part VI of subchapter P of
 4 chapter 1 (relating to treatment of certain passive foreign
 5 investment companies) is amended to read as follows:

6 **“PART VI—TREATMENT OF PASSIVE FOREIGN**
 7 **CORPORATIONS**

“Subpart A. Current taxation rules.

“Subpart B. Interest on holdings to which subpart A does not apply.

“Subpart C. General provisions.

8 **“Subpart A—Current Taxation Rules**

“Sec. 1291. Stock in certain passive foreign corporations marked to market.

“Sec. 1292. Inclusion of income of certain passive foreign corporations.

9 **“SEC. 1291. STOCK IN CERTAIN PASSIVE FOREIGN COR-**
 10 **PORATIONS MARKED TO MARKET.**

11 “(a) GENERAL RULE.—In the case of marketable
 12 stock in a passive foreign corporation which is owned (or
 13 treated under subsection (g) as owned) by a United States
 14 person at the close of any taxable year of such person—

15 “(1) If the fair market value of such stock as
 16 of the close of such taxable year exceeds its adjusted
 17 basis, such United States person shall include in
 18 gross income for such taxable year an amount equal
 19 to the amount of such excess.

20 “(2) If the adjusted basis of such stock exceeds
 21 the fair market value of such stock as of the close

1 of such taxable year, such United States person
2 shall be allowed a deduction for such taxable year
3 equal to the lesser of—

4 “(A) the amount of such excess, or

5 “(B) the unreversed inclusions with respect
6 to such stock.

7 “(b) BASIS ADJUSTMENTS.—

8 “(1) IN GENERAL.—The adjusted basis of stock
9 in a passive foreign corporation—

10 “(A) shall be increased by the amount in-
11 cluded in the gross income of the United States
12 person under subsection (a)(1) with respect to
13 such stock, and

14 “(B) shall be decreased by the amount al-
15 lowed as a deduction to the United States per-
16 son under subsection (a)(2) with respect to
17 such stock.

18 “(2) SPECIAL RULE FOR STOCK CONSTRUC-
19 TIVELY OWNED.—In the case of stock in a passive
20 foreign corporation which the United States person
21 is treated as owning under subsection (g)—

22 “(A) the adjustments under paragraph (1)
23 shall apply to such stock in the hands of the
24 person actually holding such stock but only for
25 purposes of determining the subsequent treat-

1 ment under this chapter of the United States
2 person with respect to such stock, and

3 “(B) similar adjustments shall be made to
4 the adjusted basis of the property by reason of
5 which the United States person is treated as
6 owning such stock.

7 “(c) CHARACTER AND SOURCE RULES.—

8 “(1) ORDINARY TREATMENT.—

9 “(A) GAIN.—Any amount included in gross
10 income under subsection (a)(1), and any gain
11 on the sale or other disposition of marketable
12 stock in a passive foreign corporation, shall be
13 treated as ordinary income.

14 “(B) LOSS.—Any—

15 “(i) amount allowed as a deduction
16 under subsection (a)(2), and

17 “(ii) loss on the sale or other disposi-
18 tion of marketable stock in a passive for-
19 eign corporation to the extent that the
20 amount of such loss does not exceed the
21 unreversed inclusions with respect to such
22 stock,

23 shall be treated as an ordinary loss. The
24 amount so treated shall be treated as a deduc-

1 tion allowable in computing adjusted gross in-
2 come.

3 “(2) SOURCE.—The source of any amount in-
4 cluded in gross income under subsection (a)(1) (or
5 allowed as a deduction under subsection (a)(2)) shall
6 be determined in the same manner as if such
7 amount were gain or loss (as the case may be) from
8 the sale of stock in the passive foreign corporation.

9 “(d) UNREVERSED INCLUSIONS.—For purposes of
10 this section, the term ‘unreversed inclusions’ means, with
11 respect to any stock in a passive foreign corporation, the
12 excess (if any) of—

13 “(1) the amount included in gross income of
14 the taxpayer under subsection (a)(1) with respect to
15 such stock for prior taxable years, over

16 “(2) the amount allowed as a deduction under
17 subsection (a)(2) with respect to such stock for prior
18 taxable years.

19 The amount referred to in paragraph (1) shall include any
20 amount which would have been included in gross income
21 under subsection (a)(1) with respect to such stock for any
22 prior taxable year but for section 1293.

23 “(e) COORDINATION WITH SECTION 1292.—This
24 section shall not apply with respect to any stock in a pas-
25 sive foreign corporation—

1 “(1) which is U.S. controlled,

2 “(2) which is a qualified electing fund with re-
3 spect to the United States person for the taxable
4 year, or

5 “(3) in which the United States person is a 25-
6 percent shareholder.

7 “(f) TREATMENT OF CONTROLLED FOREIGN COR-
8 PORATIONS WHICH ARE SHAREHOLDERS IN PASSIVE
9 FOREIGN CORPORATIONS.—In the case of a foreign cor-
10 poration which is a controlled foreign corporation (or is
11 treated as a controlled foreign corporation under section
12 1292) and which owns (or is treated under subsection (g)
13 as owning) stock in a passive foreign corporation—

14 “(1) this section (other than subsection (c)(2)
15 thereof) shall apply to such foreign corporation in
16 the same manner as if such corporation were a Unit-
17 ed States person, and

18 “(2) for purposes of subpart F of part III of
19 subchapter N—

20 “(A) any amount included in gross income
21 under subsection (a)(1) shall be treated as for-
22 eign personal holding company income de-
23 scribed in section 954(c)(1)(A), and

24 “(B) any amount allowed as a deduction
25 under subsection (a)(2) shall be treated as a de-

1 duction allocable to foreign personal holding
2 company income so described.

3 “(g) STOCK OWNED THROUGH CERTAIN FOREIGN
4 ENTITIES.—Except as provided in regulations—

5 “(1) IN GENERAL.—For purposes of this sec-
6 tion, stock owned, directly or indirectly, by or for a
7 foreign partnership or foreign trust or foreign estate
8 shall be considered as being owned proportionately
9 by its partners or beneficiaries. Stock considered to
10 be owned by a person by reason of the application
11 of the preceding sentence shall, for purposes of ap-
12 plying such sentence, be treated as actually owned
13 by such person.

14 “(2) TREATMENT OF CERTAIN DISPOSITIONS.—
15 In any case in which a United States person is
16 treated as owning stock in a passive foreign corpora-
17 tion by reason of paragraph (1)—

18 “(A) any disposition by the United States
19 person or by any other person which results in
20 the United States person being treated as no
21 longer owning such stock, and

22 “(B) any disposition by the person owning
23 such stock,

1 shall be treated as a disposition by the United
2 States person of the stock in the passive foreign cor-
3 poration.

4 “(h) COORDINATION WITH SECTION 851(b).—For
5 purposes of paragraphs (2) and (3) of section 851(b), any
6 amount included in gross income under subsection (a)
7 shall be treated as a dividend.

8 “(i) TRANSITION RULES.—

9 “(1) INDIVIDUALS BECOMING SUBJECT TO
10 UNITED STATES TAX.—If any individual becomes a
11 United States person in a taxable year beginning
12 after December 31, 1993, solely for purposes of this
13 section, the adjusted basis (before adjustments
14 under subsection (b)) of any marketable stock in a
15 passive foreign corporation owned (or treated as
16 owned under subsection (g)) by such individual on
17 the first day of such taxable year shall be treated as
18 being the greater of its fair market value on such
19 first day or its adjusted basis on such first day.

20 “(2) MARKETABLE STOCK HELD BEFORE EF-
21 FECTIVE DATE.—

22 “(A) IN GENERAL.—If any marketable
23 stock in a passive foreign corporation is owned
24 (or treated under subsection (g) as owned) by
25 a United States person on the first day of such

1 person's first taxable year, beginning after De-
2 cember 31, 1993—

3 “(i) paragraph (2) of section 1294(a)
4 shall apply to such stock as if it became
5 marketable during such first taxable year;
6 except that—

7 “(I) section 1293 shall not apply
8 to the amount included in gross in-
9 come under subsection (a) to the ex-
10 tent such amount is attributable to in-
11 creases in fair market value during
12 such first taxable year, and

13 “(II) the taxpayer's holding pe-
14 riod shall be treated as having ended
15 on the last day of the preceding tax-
16 able year for purposes of allocating
17 amounts under section 1293(a)(1)(A),
18 and

19 “(ii) such person may elect to extend
20 the time for the payment of the applicable
21 section 1293 deferred tax as provided in
22 subparagraph (B).

23 “(B) ELECTION TO EXTEND TIME FOR
24 PAYMENT.—

1 “(i) IN GENERAL.—At the election of
2 the taxpayer, the time for the payment of
3 the applicable section 1293 deferred tax
4 shall be extended to the extent and subject
5 to the limitations provided in this subpara-
6 graph.

7 “(ii) TERMINATION OF EXTENSION.—

8 “(I) DISTRIBUTIONS.—If any
9 distribution is received with respect to
10 any stock to which an extension under
11 clause (i) relates and such distribution
12 would be an excess distribution within
13 the meaning of section 1293 if such
14 section applied to such stock, then the
15 extension under clause (i) for the ap-
16 propriate portion (as determined
17 under regulations) of the applicable
18 section 1293 deferred tax shall expire
19 on the last day prescribed by law (de-
20 termined without regard to exten-
21 sions) for filing the return of tax for
22 the taxable year in which the distribu-
23 tion is received.

24 “(II) REVERSAL OF INCLU-
25 SION.—If an amount is allowable as a

1 deduction under subsection (a)(2)
2 with respect to any stock to which an
3 extension under clause (i) relates and
4 the amount so allowable is allocable to
5 the amount which gave rise to the ap-
6 plicable section 1293 deferred tax,
7 then the extension under clause (i) for
8 the appropriate portion (as deter-
9 mined under regulations) of the appli-
10 cable section 1293 deferred tax shall
11 expire on the last day prescribed by
12 law (determined without regard to ex-
13 tensions) for filing the return of the
14 tax for the taxable year for which
15 such deduction is allowed.

16 “(III) DISPOSITIONS, ETC.—If
17 stock in a passive foreign corporation
18 is disposed of during the taxable year,
19 all extensions under clause (i) for pay-
20 ment of the applicable section 1293
21 deferred tax attributable to such stock
22 which have not expired before the date
23 of such disposition shall expire on the
24 last date prescribed by law (deter-
25 mined without regard to extensions)

1 for filing the return of tax for the tax-
2 able year in which such disposition oc-
3 curs. To the extent provided in regu-
4 lations, the preceding sentence shall
5 not apply in the case of a disposition
6 in a transaction with respect to which
7 gain or loss is not recognized (in
8 whole or in part), and the person ac-
9 quiring such stock in such transaction
10 shall succeed to the treatment under
11 this section of the person making such
12 disposition.

13 “(iii) OTHER RULES.—

14 “(I) ELECTION.—The election
15 under clause (i) shall be made not
16 later than the time prescribed by law
17 (including extensions) for filing the
18 return of tax imposed by this chapter
19 for the first taxable year referred to
20 in subparagraph (A).

21 “(II) TREATMENT OF LOANS TO
22 SHAREHOLDER.—For purposes of this
23 subparagraph, any loan by a passive
24 foreign corporation (directly or indi-
25 rectly) to a shareholder of such cor-

1 poration shall be treated as a distribu-
2 tion to such shareholder.

3 “(C) CROSS REFERENCE.—

**“For provisions providing for interest for the pe-
period of the extension under this paragraph, see sec-
tion 6601.**

4 “(D) APPLICABLE SECTION 1293 DE-
5 FERRED TAX.—For purposes of this paragraph,
6 the term ‘applicable section 1293 deferred tax’
7 means the deferred tax amount determined
8 under section 1293 with respect to the amount
9 which, but for section 1293, would have been
10 included in gross income for the first taxable
11 year referred to in subparagraph (A). Such
12 term also includes the tax imposed by this
13 chapter for such first taxable year to the extent
14 attributable to the amounts allocated under sec-
15 tion 1293(a)(1)(A) to a period described in sec-
16 tion 1293(a)(1)(B)(ii).

17 “(3) SPECIAL RULES FOR REGULATED INVEST-
18 MENT COMPANIES.—

19 “(A) IN GENERAL.—If any marketable
20 stock in a passive foreign corporation is owned
21 (or treated under subsection (g) as owned) by
22 a regulated investment company on the first
23 day of such company’s first taxable year begin-
24 ning after December 31, 1993—

1 “(i) section 1293 shall not apply to
 2 such stock with respect to any distribution
 3 or disposition during, or amount included
 4 in gross income under this section for,
 5 such first taxable year, but

6 “(ii) such company’s tax under this
 7 chapter for such first taxable year shall be
 8 increased by the aggregate amount of in-
 9 terest which would have been determined
 10 under section 1293(c)(3) if section 1293
 11 were applied without regard to this sub-
 12 paragraph.

13 “(B) DISALLOWANCE OF DEDUCTION.—No
 14 deduction shall be allowed to any regulated in-
 15 vestment company for the increase in tax under
 16 subparagraph (A)(ii).

17 **SEC. 1292. CURRENT INCLUSION OF INCOME OF CERTAIN**
 18 **PASSIVE FOREIGN CORPORATIONS.**

19 “(a) PASSIVE FOREIGN CORPORATIONS WHICH ARE
 20 UNITED STATES CONTROLLED.—

21 “(1) TREATMENT UNDER SUBPART F.—

22 “(A) IN GENERAL.—If a passive foreign
 23 corporation is United States controlled, then for
 24 purposes of subpart F of part III of subchapter
 25 N—

1 “(i) such corporation, if not otherwise
2 a controlled foreign corporation, shall be
3 treated as a controlled foreign corporation,

4 “(ii) the term ‘United States share-
5 holder’ means, with respect to such cor-
6 poration, any United States person who
7 owns (within the meaning of section
8 958(a)) any stock in such corporation,

9 “(iii) the entire gross income of such
10 corporation shall, after being reduced
11 under the principles of paragraph (5) of
12 section 954(b), be treated as foreign base
13 company income, and

14 “(iv) sections 970 and 971 shall not
15 apply.

16 Except as provided in regulations, the preceding
17 sentence shall also apply for purposes of section
18 904(d).

19 “(B) SPECIAL RULES.—If any taxpayer is
20 treated as being a United States shareholder in
21 a controlled foreign corporation solely by reason
22 of this section—

23 “(i) section 954(b)(4) (relating to ex-
24 ception for certain income subject to high
25 foreign taxes) shall not apply for purposes

1 of determining the amount included in the
2 gross income of such taxpayer under sec-
3 tion 951 by reason of being so treated with
4 respect to such corporation, and

5 “(ii) the amount so included in the
6 gross income of such taxpayer under sec-
7 tion 951 with respect to such corporation
8 shall be treated as long-term capital gain
9 to the extent attributable to the net capital
10 gain of such corporation.

11 “(2) U.S. CONTROLLED.—For purposes of this
12 subpart, a passive foreign corporation is United
13 States controlled if—

14 “(A) such corporation is a controlled for-
15 eign corporation determined without regard to
16 this subsection, or

17 “(B) at any time during the taxable year
18 more than 50 percent of—

19 “(i) the total combined voting power
20 of all classes of stock of such corporation
21 entitled to vote, or

22 “(ii) the total value of the stock of
23 such corporation,
24 is owned directly or indirectly by 5 or fewer
25 United States persons.

1 “(3) CONSTRUCTIVE OWNERSHIP RULES FOR
2 PURPOSES OF PARAGRAPH (2)(B).—For purposes of
3 paragraph (2)(B), the attribution rules provided in
4 section 544 shall apply, determined as if any ref-
5 erence to a personal holding company were a ref-
6 erence to a corporation described in paragraph
7 (2)(B) (and any reference to the stock ownership re-
8 quirement provided in section 542(a)(2) were a ref-
9 erence to the requirement of paragraph (2)(B)); ex-
10 cept that—

11 “(A) subsection (a)(4) of such section shall
12 be applied by substituting ‘Paragraphs (1), (2),
13 and (3)’ for ‘Paragraphs (2) and (3)’,

14 “(B) stock owned by a nonresident alien
15 individual shall not be considered by reason of
16 attribution through family membership as
17 owned by a citizen or resident alien individual
18 who is not the spouse of the nonresident alien
19 individual and who does not otherwise own
20 stock in the foreign corporation (determined
21 after the application of such attribution rules
22 other than attribution through family member-
23 ship), and

24 “(C) stock of a corporation owned by any
25 foreign person shall not be considered by reason

1 of attribution through partners as owned by a
2 citizen or resident of the United States who
3 does not otherwise own stock in the foreign cor-
4 poration (determined after the application of
5 such attribution rules and subparagraph (A),
6 other than attribution through partners).

7 “(b) TAXPAYERS ELECTING CURRENT INCLUSION
8 AND 25-PERCENT SHAREHOLDERS.—

9 “(1) IN GENERAL.—If a passive foreign cor-
10 poration which is not United States controlled is a
11 qualified electing fund with respect to any taxpayer
12 or the taxpayer is a 25-percent shareholder in such
13 corporation, then for purposes of subpart F of part
14 III of subchapter N—

15 “(A) such passive foreign corporation shall
16 be treated as a controlled foreign corporation
17 with respect to such taxpayer,

18 “(B) such taxpayer shall be treated as a
19 United States shareholder in such corporation,
20 and

21 “(C) the modifications of clauses (iii) and
22 (iv) of subsection (a)(1)(A) and of subpara-
23 graph (B) of subsection (a)(1) shall apply in
24 determining the amount included under such

1 subpart F in the gross income of such taxpayer
2 (and the character of the amount so included).

3 For purposes of section 904(d), any amount in-
4 cluded in the gross income of the taxpayer under the
5 preceding sentence shall be treated as a dividend
6 from a foreign corporation which is not a controlled
7 foreign corporation.

8 “(2) QUALIFIED ELECTING FUND.—For pur-
9 poses of this subpart, the term ‘qualified electing
10 fund’ means any passive foreign corporation if—

11 “(A) an election by the taxpayer under
12 paragraph (3) applies to such corporation for
13 the taxable year of the taxpayer, and

14 “(B) such corporation complies with such
15 requirements as the Secretary may prescribe for
16 purposes of carrying out the purposes of this
17 subpart.

18 “(3) ELECTION.—

19 “(A) IN GENERAL.—A taxpayer may make
20 an election under this paragraph with respect to
21 any passive foreign corporation for any taxable
22 year of the taxpayer. Such an election, once
23 made with respect to any corporation, shall
24 apply to all subsequent taxable years of the tax-
25 payer with respect to such corporation unless

1 revoked by the taxpayer with the consent of the
2 Secretary.

3 “(B) WHEN MADE.—An election under
4 this subsection may be made for any taxable
5 year of the taxpayer at any time on or before
6 the due date (determined with regard to exten-
7 sions) for filing the return of the tax imposed
8 by this chapter for such taxable year. To the
9 extent provided in regulations, such an election
10 may be made later than as required in the pre-
11 ceding sentence where the taxpayer fails to
12 make a timely election because the taxpayer
13 reasonably believes that the corporation was not
14 a passive foreign corporation.

15 “(4) 25-PERCENT SHAREHOLDER.—For pur-
16 poses of this subpart, the term ‘25-percent share-
17 holder’ means, with respect to any passive foreign
18 corporation, any United States person who owns
19 (within the meaning of section 958(a)), or is consid-
20 ered as owning by applying the rules of section
21 958(b), 25 percent or more (by vote or value) of the
22 stock of such corporation.

23 **“Subpart B—Interest on Holdings To Which Subpart**
24 **A Does Not Apply**

“Sec. 1293. Interest on tax deferral.

“Sec. 1294. Definitions and special rules.

1 **“SEC. 1293. INTEREST ON TAX DEFERRAL.**

2 “(a) TREATMENT OF DISTRIBUTIONS AND STOCK
3 DISPOSITIONS.—

4 “(1) DISTRIBUTIONS.—If a United States per-
5 son receives an excess distribution in respect of
6 stock to which this section applies, then—

7 “(A) the amount of the excess distribution
8 shall be allocated ratably to each day in the tax-
9 payer’s holding period for the stock,

10 “(B) with respect to such excess distribu-
11 tion, the taxpayer’s gross income for the cur-
12 rent year shall include (as ordinary income)
13 only the amounts allocated under subparagraph
14 (A) to—

15 “(i) the current year, or

16 “(ii) any period in the taxpayer’s
17 holding period before the first day of the
18 first taxable year of the corporation which
19 begins after December 31, 1986, and for
20 which it was a passive foreign corporation,
21 and

22 “(C) the tax imposed by this chapter for
23 the current year shall be increased by the de-
24 ferred tax amount (determined under sub-
25 section (c)).

1 “(2) DISPOSITIONS.—If the taxpayer disposes
2 of stock to which this section applies, then the rules
3 of paragraph (1) shall apply to any gain recognized
4 on such disposition in the same manner as if such
5 gain were an excess distribution.

6 “(3) DEFINITIONS.—For purposes of this sub-
7 part—

8 “(A) HOLDING PERIOD.—The taxpayer’s
9 holding period shall be determined under sec-
10 tion 1223; except that—

11 “(i) for purposes of applying this sec-
12 tion to an excess distribution, such holding
13 period shall be treated as ending on the
14 date of such distribution, and

15 “(ii) if section 1291 applied to such
16 stock with respect to the taxpayer for any
17 prior taxable year, such holding period
18 shall be treated as beginning on the first
19 day of the first taxable year beginning
20 after the last taxable year for which sec-
21 tion 1291 so applied.

22 “(B) CURRENT YEAR.—The term ‘current
23 year’ means the taxable year in which the ex-
24 cess distribution or disposition occurs.

25 “(b) EXCESS DISTRIBUTION.—

1 “(1) IN GENERAL.—For purposes of this sec-
2 tion, the term ‘excess distribution’ means any dis-
3 tribution in respect of stock received during any tax-
4 able year to the extent such distribution does not ex-
5 ceed its ratable portion of the total excess distribu-
6 tion (if any) for such taxable year.

7 “(2) TOTAL EXCESS DISTRIBUTION.—For pur-
8 poses of this subsection—

9 “(A) IN GENERAL.—The term ‘total excess
10 distribution’ means the excess (if any) of—

11 “(i) the amount of the distributions in
12 respect of the stock received by the tax-
13 payer during the taxable year, over

14 “(ii) 125 percent of the average
15 amount received in respect of such stock
16 by the taxpayer during the 3 preceding
17 taxable years (or, if shorter, the portion of
18 the taxpayer’s holding period before the
19 taxable year).

20 For purposes of clause (ii), any excess distribu-
21 tion received during such 3-year period shall be
22 taken into account only to the extent it was in-
23 cluded in gross income under subsection
24 (a)(1)(B).

1 “(B) NO EXCESS FOR FIRST YEAR.—The
2 total excess distributions with respect to any
3 stock shall be zero for the taxable year in which
4 the taxpayer’s holding period in such stock be-
5 gins.

6 “(3) ADJUSTMENTS.—Under regulations pre-
7 scribed by the Secretary—

8 “(A) determinations under this subsection
9 shall be made on a share-by-share basis, except
10 that shares with the same holding period may
11 be aggregated,

12 “(B) proper adjustments shall be made for
13 stock splits and stock dividends,

14 “(C) if the taxpayer does not hold the
15 stock during the entire taxable year, distribu-
16 tions received during such year shall be
17 annualized,

18 “(D) if the taxpayer’s holding period in-
19 cludes periods during which the stock was held
20 by another person, distributions received by
21 such other person shall be taken into account
22 as if received by the taxpayer,

23 “(E) if the distributions are received in a
24 foreign currency, determinations under this
25 subsection shall be made in such currency and

1 the amount of any excess distribution deter-
2 mined in such currency shall be translated into
3 dollars,

4 “(F) proper adjustment shall be made for
5 amounts not includible in gross income by rea-
6 son of section 959(a) or for which a deduction
7 is allowable under section 245(c), and

8 “(G) if a charitable deduction was allow-
9 able under section 642(c) to a trust for any dis-
10 tribution of its income, proper adjustments
11 shall be made for the deduction so allowable to
12 the extent allocable to distributions or gain in
13 respect of stock in a passive foreign corpora-
14 tion.

15 For purposes of subparagraph (F), any amount not
16 includible in gross income by reason of section
17 551(d) (as in effect on January 1, 1993) or 1293(c)
18 (as so in effect) shall be treated as an amount not
19 includible in gross income by reason of section
20 959(a).

21 “(c) DEFERRED TAX AMOUNT.—For purposes of this
22 section—

23 “(1) IN GENERAL.—The term ‘deferred tax
24 amount’ means, with respect to any distribution or

1 disposition to which subsection (a) applies, an
2 amount equal to the sum of—

3 “(A) the aggregate increases in taxes de-
4 scribed in paragraph (2), plus

5 “(B) the aggregate amount of interest (de-
6 termined in the manner provided under para-
7 graph (3)) on such increases in tax.

8 Any increase in the tax imposed by this chapter for
9 the current year under subsection (a) to the extent
10 attributable to the amount referred to in subpara-
11 graph (B) shall be treated as interest paid under
12 section 6601 on the due date for the current year.

13 “(2) AGGREGATE INCREASES IN TAXES.—For
14 purposes of paragraph (1)(A), the aggregate in-
15 creases in taxes shall be determined by multiplying
16 each amount allocated under subsection (a)(1)(A) to
17 any taxable year (other than any taxable year re-
18 ferred to in subsection (a)(1)(B)) by the highest rate
19 of tax in effect for such taxable year under section
20 1 or 11, whichever applies.

21 “(3) COMPUTATION OF INTEREST.—

22 “(A) IN GENERAL.—The amount of inter-
23 est referred to in paragraph (1)(B) on any in-
24 crease determined under paragraph (2) for any

1 taxable year shall be determined for the pe-
2 riod—

3 “(i) beginning on the due date for
4 such taxable year, and

5 “(ii) ending on the due date for the
6 taxable year with or within which the dis-
7 tribution or disposition occurs,
8 by using the rates and method applicable under
9 section 6621 for underpayments of tax for such
10 period.

11 “(B) DUE DATE.—For purposes of this
12 subsection, the term ‘due date’ means the date
13 prescribed by law (determined without regard to
14 extensions) for filing the return of the tax im-
15 posed by this chapter for the taxable year.

16 “(C) SPECIAL RULE.—For purposes of de-
17 termining the amount of interest referred to in
18 paragraph (1)(B), the amount of any increase
19 in tax determined under paragraph (2) shall be
20 determined without regard to any reduction
21 under section 1294(d) for a tax described in
22 paragraph (2)(A)(ii) thereof.

23 **“SEC. 1294. DEFINITIONS AND SPECIAL RULES.**

24 “(a) STOCK TO WHICH SECTION 1293 APPLIES.—

1 “(1) IN GENERAL.—Except as otherwise pro-
2 vided in this subsection, section 1293 shall apply to
3 any stock in a passive foreign corporation unless—

4 “(A) such stock is marketable stock as of
5 the time of the distribution or disposition in-
6 volved, or

7 “(B)(i) with respect to each of such cor-
8 poration’s taxable years for which such corpora-
9 tion was a passive foreign corporation and
10 which began after December 31, 1993, and in-
11 cluded any portion of the taxpayer’s holding pe-
12 riod in such stock—

13 “(I) such corporation was United
14 States controlled (within the meaning of
15 section 1292(a)(2)), or

16 “(II) such corporation was treated as
17 a controlled foreign corporation under sec-
18 tion 1292(b) with respect to the taxpayer,
19 and

20 “(ii) with respect to each of such corpora-
21 tion’s taxable years for which such corporation
22 was a passive foreign corporation and which
23 begin after December 31, 1986, and before
24 January 1, 1994, and included any portion of
25 the taxpayer’s holding period in such stock,

1 such corporation was treated as a qualified
2 electing fund under this part (as in effect on
3 January 1, 1993) with respect to the taxpayer.

4 “(2) TREATMENT WHERE STOCK BECOMES
5 MARKETABLE.—If any stock in a passive foreign
6 corporation becomes marketable stock after the be-
7 ginning of the taxpayer’s holding period in such
8 stock, and if the requirements of paragraph (1)(B)
9 are not satisfied, section 1293 shall apply to—

10 “(A) any distributions with respect to, or
11 disposition of, such stock in the taxable year of
12 the taxpayer in which it becomes so marketable,
13 and

14 “(B) any amount which, but for section
15 1293, would have been included in gross income
16 under section 1291(a) with respect to such
17 stock for such taxable year in the same manner
18 as if such amount were gain on the disposition
19 of such stock.

20 “(3) ELECTION TO RECOGNIZE GAIN WHERE
21 COMPANY BECOMES SUBJECT TO CURRENT INCLU-
22 SIONS.—

23 “(A) IN GENERAL.—If—

24 “(i) a passive foreign corporation first
25 meets the requirements of clause (i) of

1 paragraph (1)(B) with respect to the tax-
2 payer for a taxable year of such taxpayer
3 which begins after December 31, 1993,

4 “(ii) the taxpayer holds stock in such
5 company on the first day of such taxable
6 year, and

7 “(iii) the taxpayer establishes to the
8 satisfaction of the Secretary the fair mar-
9 ket value of such stock on such first day,
10 the taxpayer may elect to recognize gain as if
11 he sold such stock on such first day for such
12 fair market value.

13 “(B) ADDITIONAL ELECTION FOR SHARE-
14 HOLDER OF CONTROLLED FOREIGN CORPORA-
15 TIONS.—

16 “(i) IN GENERAL.—If—

17 “(I) a passive foreign corporation
18 first meets the requirements of
19 subclause (I) of paragraph (1)(B)(i)
20 with respect to the taxpayer for a tax-
21 able year of such taxpayer which be-
22 gins after December 31, 1993,

23 “(II) the taxpayer holds stock in
24 such corporation on the first day of
25 such taxable year, and

1 “(III) such corporation is a con-
2 trolled foreign corporation without re-
3 gard to this part,

4 the taxpayer may elect to be treated as receiv-
5 ing a dividend on such first day in an amount
6 equal to the portion of the post-1986 earnings
7 and profits of such corporation attributable
8 (under regulations prescribed by the Secretary)
9 to the stock in such corporation held by the tax-
10 payer on such first day. The amount treated as
11 a dividend under the preceding sentence shall
12 be treated as an excess distribution and shall be
13 allocated under section 1293(a)(1)(A) only to
14 days during periods taken into account in deter-
15 mining the post-1986 earnings and profits so
16 attributable.

17 “(ii) POST-1986 EARNINGS AND PROF-
18 ITS.—For purposes of clause (i), the term
19 ‘post-1986 earnings and profits’ means
20 earnings and profits which were accumu-
21 lated in taxable years of the corporation
22 beginning after December 31, 1986, and
23 during the period or periods the stock was
24 held by the taxpayer while the corporation
25 was a passive foreign corporation.

1 “(iii) COORDINATION WITH SECTION
2 959(e).—For purposes of section 959(e),
3 any amount treated as a dividend under
4 this subparagraph shall be treated as in-
5 cluded in gross income under section
6 1248(a).

7 “(C) ADJUSTMENTS.—In the case of any
8 stock to which subparagraph (A) or (B) ap-
9 plies—

10 “(i) the adjusted basis of such stock
11 shall be increased by the gain recognized
12 under subparagraph (A) or the amount
13 treated as a dividend under subparagraph
14 (B), as the case may be, and

15 “(ii) the taxpayer’s holding period in
16 such stock shall be treated as beginning on
17 the first day referred to in such subpara-
18 graph.

19 “(b) RULES RELATING TO STOCK ACQUIRED FROM
20 A DECEDENT.—

21 “(1) BASIS.—In the case of stock of a passive
22 foreign corporation acquired by bequest, devise, or
23 inheritance (or by the decedent’s estate), notwith-
24 standing section 1014, the basis of such stock in the
25 hands of the person so acquiring it shall be the ad-

1 justed basis of such stock in the hands of the dece-
2 dent immediately before his death (or, if lesser, the
3 basis which would have been determined under sec-
4 tion 1014 without regard to this paragraph).

5 “(2) DEDUCTION FOR ESTATE TAX.—If stock
6 in a passive foreign corporation is acquired from a
7 decendent, the taxpayer shall, under regulations pre-
8 scribed by the Secretary, be allowed (for the taxable
9 year of the sale or exchange) a deduction from gross
10 income equal to that portion of the decedent’s estate
11 tax deemed paid which is attributable to the excess
12 of (A) the value at which such stock was taken into
13 account for purposes of determining the value of the
14 decedent’s gross estate, over (B) the basis deter-
15 mined under paragraph (1).

16 “(3) EXCEPTIONS.—This subsection shall not
17 apply to any stock in a passive foreign corporation
18 if—

19 “(A) section 1293 would not have applied
20 to a disposition of such stock by the decedent
21 immediately before his death, or

22 “(B) the decedent was a nonresident alien
23 at all times during his holding period in such
24 stock.

1 “(c) RECOGNITION OF GAIN.—Except as otherwise
2 provided in regulations, in the case of any transfer of stock
3 in a passive foreign company to which section 1293 ap-
4 plies, where (but for this subsection) there is not full rec-
5 ognition of gain, the excess (if any) of—

6 “(1) the fair market value of such stock, over

7 “(2) its adjusted basis,

8 shall be treated as gain from the sale or exchange of such
9 stock and shall be recognized notwithstanding any provi-
10 sion of law. Proper adjustment shall be made to the basis
11 of property for gain recognized under the preceding sen-
12 tence.

13 “(d) COORDINATION WITH FOREIGN TAX CREDIT
14 RULES.—

15 “(1) IN GENERAL.—If there are creditable for-
16 eign taxes with respect to any distribution in respect
17 of stock in a passive foreign corporation—

18 “(A) the amount of such distribution shall
19 be determined for purposes of section 1293 with
20 regard to section 78,

21 “(B) the excess distribution taxes shall be
22 allocated ratably to each day in the taxpayer’s
23 holding period for the stock, and

24 “(C) to the extent—

1 “(i) that such excess distribution
2 taxes are allocated to a taxable year re-
3 ferred to in section 1293(a)(1)(B), such
4 taxes shall be taken into account under
5 section 901 for the current year, and

6 “(ii) that such excess distribution
7 taxes are allocated to any other taxable
8 year, such taxes shall reduce (subject to
9 the principles of section 904 and not below
10 zero) the increase in tax determined under
11 section 1293(c)(2) for such taxable year by
12 reason of such distribution (but such taxes
13 shall not be taken into account under sec-
14 tion 901).

15 “(2) DEFINITIONS.—For purposes of this sub-
16 section—

17 “(A) CREDITABLE FOREIGN TAXES.—The
18 term ‘creditable foreign taxes’ means, with re-
19 spect to any distribution—

20 “(i) any foreign taxes deemed paid
21 under section 902 with respect to such dis-
22 tribution, and

23 “(ii) any withholding tax imposed with
24 respect to such distribution,

1 but only if the taxpayer chooses the benefits of
2 section 901 and such taxes are creditable under
3 section 901 (determined without regard to
4 paragraph (1)(C)(ii)).

5 “(B) EXCESS DISTRIBUTION TAXES.—The
6 term ‘excess distribution taxes’ means, with re-
7 spect to any distribution, the portion of the
8 creditable foreign taxes with respect to such
9 distribution which is attributable (on a pro rata
10 basis) to the portion of such distribution which
11 is an excess distribution.

12 “(C) SECTION 1248 GAIN.—The rules of
13 this subsection also shall apply in the case of
14 any gain which but for this section would be in-
15 cludible in gross income as a dividend under
16 section 1248.

17 “(e) ATTRIBUTION OF OWNERSHIP.—For purposes
18 of this subpart—

19 “(1) ATTRIBUTION TO UNITED STATES PER-
20 SONS.—This subsection—

21 “(A) shall apply to the extent that the ef-
22 fect is to treat stock of a passive foreign cor-
23 poration as owned by a United States person,
24 and

1 “(B) except as provided in paragraph (3)
2 or in regulations, shall not apply to treat stock
3 owned (or treated as owned under this sub-
4 section) by a United States person as owned by
5 any other person.

6 “(2) CORPORATIONS.—

7 “(A) IN GENERAL.—If 50 percent or more
8 in value of the stock of a corporation (other
9 than an S corporation) is owned, directly or in-
10 directly, by or for any person, such person shall
11 be considered as owning the stock owned di-
12 rectly or indirectly by or for such corporation in
13 that proportion which the value of the stock
14 which such person so owns bears to the value
15 of all stock in the corporation.

16 “(B) 50-PERCENT LIMITATION NOT TO
17 APPLY IN CERTAIN CASES.—For purposes of de-
18 termining whether a shareholder of a passive
19 foreign corporation (or whether a United States
20 shareholder of a controlled foreign corporation
21 which is not a passive foreign corporation) is
22 treated as owning stock owned directly or indi-
23 rectly by or for such corporation, subparagraph
24 (A) shall be applied without regard to the 50-
25 percent limitation contained therein.

1 “(C) FAMILY AND PARTNER ATTRIBUTION
2 FOR 50-PERCENT LIMITATION.—For purposes of
3 determining whether the 50-percent limitation
4 of subparagraph (A) is met, the constructive
5 ownership rules of section 544(a)(2) shall apply
6 in addition to the other rules of this subsection.

7 “(3) PARTNERSHIPS, ETC.—Except as provided
8 in regulations, stock owned, directly or indirectly, by
9 or for a partnership, S corporation, estate, or trust
10 shall be considered as being owned proportionately
11 by its partners, shareholders, or beneficiaries (as the
12 case may be).

13 “(4) OPTIONS.—To the extent provided in regu-
14 lations, if any person has an option to acquire stock,
15 such stock shall be considered as owned by such per-
16 son. For purposes of this paragraph, an option to
17 acquire such an option, and each one of a series of
18 such options, shall be considered as an option to ac-
19 quire such stock.

20 “(5) SUCCESSIVE APPLICATION.—Stock consid-
21 ered to be owned by a person by reason of the appli-
22 cation of paragraph (2), (3), or (4) shall, for pur-
23 poses of applying such paragraphs, be considered as
24 actually owned by such person.

1 “(f) OTHER SPECIAL RULES.—For purposes of this
2 subpart—

3 “(1) TIME FOR DETERMINATION.—Stock held
4 by a taxpayer shall be treated as stock in a passive
5 foreign corporation if, at any time during the hold-
6 ing period of the taxpayer with respect to such
7 stock, such corporation (or any predecessor) was a
8 passive foreign corporation. The preceding sentence
9 shall not apply if the taxpayer elects to recognize
10 gain (as of the last day of the last taxable year for
11 which the company was a passive foreign corpora-
12 tion) under rules similar to the rules of subsection
13 (a)(3)(A).

14 “(2) APPLICATION OF SUBPART WHERE STOCK
15 HELD BY OTHER ENTITY.—Under regulations—

16 “(A) IN GENERAL.—In any case in which
17 a United States person is treated as owning
18 stock in a passive foreign corporation by reason
19 of subsection (e)—

20 “(i) any transaction which results in
21 the United States person being treated as
22 no longer owning such stock,

23 “(ii) any disposition of such stock by
24 the person owning such stock, and

1 “(iii) any distribution of property in
2 respect of such stock to the person holding
3 such stock,
4 shall be treated as a disposition by, or distribu-
5 tion to, the United States person with respect
6 to the stock in the passive foreign corporation.

7 “(B) AMOUNT TREATED IN SAME MANNER
8 AS PREVIOUSLY TAXED INCOME.—Rules similar
9 to the rules of section 959(b) shall apply to any
10 amount described in subparagraph (A) in re-
11 spect of stock which the taxpayer is treated as
12 owning under subsection (e).

13 “(C) COORDINATION WITH SECTION 951.—
14 If, but for this subparagraph, an amount would
15 be taken into account under section 1293 by
16 reason of subparagraph (A) and such amount
17 would also be included in the gross income of
18 the taxpayer under section 951, such amount
19 shall only be taken into account under section
20 1293.

21 “(3) DISPOSITIONS.—Except as provided in
22 regulations, if a taxpayer uses any stock in a passive
23 foreign corporation as security for a loan, the tax-
24 payer shall be treated as having disposed of such
25 stock.

1 **“Subpart C—General Provisions**

“Sec. 1296. Passive foreign corporation.

“Sec. 1297. Special rules.

2 **“SEC. 1296. PASSIVE FOREIGN CORPORATION.**

3 “(a) IN GENERAL.—For purposes of this part, except
4 as otherwise provided in this subpart, the term ‘passive
5 foreign corporation’ means any foreign corporation if—

6 “(1) 60 percent or more of the gross income of
7 such corporation for the taxable year is passive in-
8 come,

9 “(2) the average percentage of assets (by value)
10 held by such corporation during the taxable year
11 which produce passive income or which are held for
12 the production of passive income is at least 50 per-
13 cent, or

14 “(3) such corporation is registered under the
15 Investment Company Act of 1940, as amended (15
16 U.S.C. 80a–1 to 80b–2), either as a management
17 company or as a unit investment trust.

18 A foreign corporation may elect to have the determination
19 under paragraph (2) based on the adjusted bases of its
20 assets in lieu of their value. Such an election, once made,
21 may be revoked only with the consent of the Secretary.

22 “(b) PASSIVE INCOME.—For purposes of this sec-
23 tion—

1 “(1) IN GENERAL.—Except as otherwise pro-
2 vided in this subsection, the term ‘passive income’
3 means any income which is of a kind which would
4 be foreign personal holding company income as de-
5 fined in section 954(c) without regard to paragraph
6 (3) thereof.

7 “(2) EXCEPTIONS.—Except as provided in reg-
8 ulations, the term ‘passive income’ does not include
9 any income—

10 “(A) derived in the active conduct of a
11 banking business by an institution licensed to
12 do business as a bank in the United States (or,
13 to the extent provided in regulations, by any
14 other corporation),

15 “(B) derived in the active conduct of an in-
16 surance business by a corporation which is pre-
17 dominantly engaged in an insurance business
18 and which would be subject to tax under sub-
19 chapter L if it were a domestic corporation,

20 “(C) which is interest, a dividend, or a
21 rent or royalty, which is received or accrued
22 from a related person (within the meaning of
23 section 954(d)(3)) to the extent such amount is
24 properly allocable (under regulations prescribed

1 by the Secretary) to income of such related per-
2 son which is not passive income, or

3 “(D) any foreign trade income of a FSC.
4 For purposes of subparagraph (C), the term ‘related
5 person’ has the meaning given such term by section
6 954(d)(3) determined by substituting ‘foreign cor-
7 poration’ for ‘controlled foreign corporation’ each
8 place it appears in section 954(d)(3).

9 “(3) TREATMENT OF INCOME FROM CERTAIN
10 ASSETS.—To the extent that any asset is properly
11 treated as not held for the production of passive in-
12 come for purposes of subsection (a)(2), all income
13 from such asset shall be treated as income which is
14 not passive income.

15 “(4) TREATMENT OF CERTAIN MATCHED RE-
16 PURCHASE TRANSACTIONS.—

17 “(A) IN GENERAL.—In the case of any for-
18 eign corporation engaged in the active conduct
19 of a trade or business as a dealer in securi-
20 ties—

21 “(i) an amount properly treated as in-
22 terest income by reason of a qualified
23 matched transaction shall be netted with
24 the amount properly treated as interest ex-
25 pense by reason of such transaction, and

1 any net income resulting from such netting
2 shall be treated as an item of gross inter-
3 est income, and

4 “(ii) the offsetting positions which are
5 part of such transaction shall be netted
6 and the net position shall be treated as a
7 single asset.

8 “(B) QUALIFIED MATCHED TRANS-
9 ACTION.—For purposes of subparagraph (A)
10 the term ‘qualified matched transaction’ means
11 a sale and repurchase agreement with respect
12 to a security and an offsetting reverse agree-
13 ment with respect to the same security, entered
14 into by the foreign corporation in the active
15 conduct of its trade or business of being a
16 dealer in securities, and properly treated as
17 offsetting agreements in a matched book.

18 “(C) SECURITY.—For purposes of this
19 paragraph, the term ‘security’ has the meaning
20 given such term by section 1236(c).

21 “(c) LOOK-THROUGH IN CASE OF 25-PERCENT
22 OWNED CORPORATION.—If a foreign corporation owns
23 (directly or indirectly) at least 25 percent (by value) of
24 the stock of another corporation, for purposes of determin-
25 ing whether such foreign corporation is a passive foreign

1 corporation, such foreign corporation shall be treated as
2 if it—

3 “(1) held its proportionate share of the assets
4 of such other corporation, and

5 “(2) received directly its proportionate share of
6 the income of such other corporation.

7 **“SEC. 1297. SPECIAL RULES.**

8 “(a) UNITED STATES PERSON.—For purposes of this
9 part, the term ‘United States person’ has the meaning
10 given to such term by section 7701(a)(30).

11 “(b) CONTROLLED FOREIGN CORPORATION.—For
12 purposes of this part, the term ‘controlled foreign corpora-
13 tion’ has the meaning given such term by section 957(a).

14 “(c) MARKETABLE STOCK.—For purposes of this
15 part—

16 “(1) IN GENERAL.—The term ‘marketable
17 stock’ means—

18 “(A) any stock which is regularly traded
19 on—

20 “(i) a national securities exchange
21 which is registered with the Securities and
22 Exchange Commission or the national mar-
23 ket system established pursuant to section
24 11A of the Securities and Exchange Act of
25 1934, or

1 “(ii) any exchange or other market
2 which the Secretary determines has rules
3 adequate to carry out the purposes of this
4 part, and

5 “(B) to the extent provided in regulations,
6 stock in any foreign corporation which is com-
7 parable to a regulated investment company and
8 which offers for sale or has outstanding any
9 stock of which it is the issuer and which is re-
10 deemable at its net asset value.

11 “(2) SPECIAL RULE FOR REGULATED INVEST-
12 MENT COMPANIES.—In the case of any regulated in-
13 vestment company which is offering for sale or has
14 outstanding any stock of which it is the issuer and
15 which is redeemable at its net asset value, all stock
16 in a passive foreign corporation which it owns (or is
17 treated under section 1291(g) as owning) shall be
18 treated as marketable stock for purposes of this
19 part. Except as provided in regulations, a similar
20 rule shall apply in the case of any other regulated
21 investment company.

22 “(d) OTHER SPECIAL RULES.—For purposes of this
23 part—

24 “(1) CERTAIN CORPORATIONS NOT TREATED AS
25 PASSIVE.—A corporation shall not be treated as a

1 passive foreign corporation for the 1st taxable year
2 such corporation has gross income (hereinafter in
3 this paragraph referred to as the ‘start-up year’)
4 if—

5 “(A) no predecessor of such corporation
6 was a passive foreign corporation,

7 “(B) it is established to the satisfaction of
8 the Secretary that such corporation will not be
9 a passive foreign corporation for either of the
10 1st 2 taxable years following the start-up year,
11 and

12 “(C) such corporation is not a passive for-
13 eign corporation for either of the 1st 2 taxable
14 years following the start-up year.

15 “(2) CERTAIN CORPORATIONS CHANGING BUSI-
16 NESSES.—A corporation shall not be treated as a
17 passive foreign corporation for any taxable year if—

18 “(A) neither such corporation (nor any
19 predecessor) was a passive foreign corporation
20 for any prior taxable year,

21 “(B) it is established to the satisfaction of
22 the Secretary that—

23 “(i) substantially all of the passive in-
24 come of the corporation for the taxable
25 year is attributable to proceeds from the

1 disposition of 1 or more active trades or
2 businesses, and

3 “(ii) such corporation will not be a
4 passive foreign corporation for either of
5 the first 2 taxable years following the tax-
6 able year, and

7 “(C) such corporation is not a passive for-
8 eign corporation for either of such 2 taxable
9 years.

10 For purposes of section 1296(c), any passive income
11 referred to in subparagraph (B)(i) shall be treated
12 as income which is not passive income and any as-
13 sets which produce income so described shall be
14 treated as assets producing income other than pas-
15 sive income.

16 “(3) TREATMENT OF CERTAIN FOREIGN COR-
17 PORATIONS OWNING STOCK IN 25-PERCENT OWNED
18 DOMESTIC CORPORATION.—

19 “(A) IN GENERAL.—If a foreign corpora-
20 tion owns at least 25 percent (by value) of the
21 stock of a domestic corporation, for purposes of
22 determining whether such foreign corporation is
23 a passive foreign corporation, any qualified
24 stock held by such domestic corporation shall be
25 treated as an asset which does not produce pas-

1 sive income (and is not held for the production
2 of passive income) and any amount included in
3 gross income with respect to such stock shall
4 not be treated as passive income.

5 “(B) QUALIFIED STOCK.—For purposes of
6 subparagraph (A), the term ‘qualified stock’
7 means any stock in a C corporation which is a
8 domestic corporation and which is not a regu-
9 lated investment company or real estate invest-
10 ment trust.

11 “(4) TREATMENT OF CORPORATION WHICH WAS
12 A PFIC.—A corporation shall be treated as a passive
13 foreign corporation for any taxable year beginning
14 before January 1, 1994, if and only if such corpora-
15 tion was a passive foreign investment company
16 under this part as in effect for such taxable year.

17 “(5) SEPARATE INTERESTS TREATED AS SEPA-
18 RATE CORPORATIONS.—Under regulations prescribed
19 by the Secretary, where necessary to carry out the
20 purposes of this part, separate classes of stock (or
21 other interests) in a corporation shall be treated as
22 interests in separate corporations.

23 “(e) TREATMENT OF CERTAIN LEASED PROP-
24 ERTY.—For purposes of section 1296(a)(2)—

1 “(1) IN GENERAL.—Any tangible personal
2 property with respect to which the foreign corpora-
3 tion is the lessee under a lease with a term of at
4 least 12 months shall be treated as an asset actually
5 held by such corporation.

6 “(2) DETERMINATION OF VALUE.—

7 “(A) IN GENERAL.—The value of any asset
8 to which paragraph (1) applies shall be the less-
9 er of—

10 “(i) the fair market value of such
11 property, or

12 “(ii) the unamortized portion (as de-
13 termined under regulations prescribed by
14 the Secretary) of the present value of the
15 payments under the lease for the use of
16 such property.

17 “(B) PRESENT VALUE.—For purposes of
18 subparagraph (A), the present value of pay-
19 ments described in subparagraph (A)(ii) shall
20 be determined in the manner provided in regu-
21 lations prescribed by the Secretary—

22 “(i) as of the beginning of the lease
23 term, and

24 “(ii) except as provided in such regu-
25 lations, by using a discount rate equal to

1 the applicable Federal rate determined
2 under section 1274(d)—

3 “(I) by substituting the lease
4 term for the term of the debt instru-
5 ment, and

6 “(II) without regard to para-
7 graph (2) or (3) thereof.

8 “(3) EXCEPTIONS.—This subsection shall not
9 apply in any case where—

10 “(A) the lessor is a related person (as de-
11 fined in the last sentence of section 1296(b)(2))
12 with respect to the foreign corporation, or

13 “(B) a principal purpose of leasing the
14 property was to avoid the provisions of this
15 part.

16 “(f) ELECTION BY CERTAIN PASSIVE FOREIGN COR-
17 PORATIONS TO BE TREATED AS A DOMESTIC CORPORA-
18 TION.—

19 “(1) IN GENERAL.—For purposes of this title,
20 if—

21 “(A) a passive foreign corporation would
22 qualify as a regulated investment company
23 under part I of subchapter M if such passive
24 foreign corporation were a domestic corpora-
25 tion,

1 “(B) such passive foreign corporation
2 meets such requirements as the Secretary shall
3 prescribe to ensure that the taxes imposed by
4 this title on such passive foreign corporation
5 are paid, and

6 “(C) such passive foreign corporation
7 makes an election to have this paragraph apply
8 and waives all benefits which are granted by the
9 United States under any treaty and to which
10 such corporation would otherwise be entitled by
11 reason of being a resident of another country,
12 such corporation shall be treated as a domestic cor-
13 poration.

14 “(2) CERTAIN RULES MADE APPLICABLE.—
15 Rules similar to the rules of paragraphs (2), (3),
16 (4)(A), and (5) of section 953(d) shall apply with re-
17 spect to any corporation making an election under
18 paragraph (1).

19 “(g) SPECIAL RULES FOR CERTAIN TAXPAYERS.—

20 “(1) TAX-EXEMPT ORGANIZATIONS.—In the
21 case of any organization exempt from tax under sec-
22 tion 501—

23 “(A) this part shall apply to any stock in
24 a passive foreign corporation owned (or treated
25 as owned under section 1294(e)) by such orga-

1 nization only to the extent that a dividend on
2 such stock would be taken into account in de-
3 termining the unrelated business taxable income
4 of such organization, and

5 “(B) to the extent that this part applies to
6 any such stock, this part shall be applied in the
7 same manner as if such organization were not
8 exempt from tax under section 501(a).

9 “(2) TREATMENT OF STOCK HELD BY POOLED
10 INCOME FUND.—If stock in a passive foreign cor-
11 poration is owned (or treated as owned under section
12 1294(e)) by a pooled income fund (as defined in sec-
13 tion 642(c)(5)) and no portion of any gain from a
14 disposition of such stock may be allocated to income
15 under the terms of the governing instrument of such
16 fund—

17 “(A) section 1293 shall not apply to any
18 gain on a disposition of such stock by such fund
19 if (without regard to section 1293) a deduction
20 would be allowable with respect to such gain
21 under section 642(c)(3),

22 “(B) subpart A shall not apply with re-
23 spect to such stock, and

24 “(C) in determining whether section 1293
25 applies to any distribution in respect of such

1 stock, such stock shall be treated as failing to
2 qualify for the exceptions under section
3 1294(a)(1).

4 “(h) INFORMATION FROM SHAREHOLDERS.—Every
5 United States person who owns stock in any passive for-
6 eign corporation shall furnish with respect to such cor-
7 poration such information as the Secretary may prescribe.

8 “(i) REGULATIONS.—The Secretary shall prescribe
9 such regulations as may be necessary or appropriate to
10 carry out the purposes of this part, including regula-
11 tions—

12 “(1) providing that gross income shall be deter-
13 mined without regard to section 1293 for such pur-
14 poses as may be specified in such regulations, and

15 “(2) to prevent avoidance of the provisions of
16 this part through changes in citizenship or residence
17 status.”

18 (b) INSTALLMENT SALES TREATMENT NOT AVAIL-
19 ABLE.—Paragraph (2) of section 453(k) is amended by
20 striking “or” at the end of subparagraph (A), by inserting
21 “or” at the end of subparagraph (B), and by adding at
22 the end thereof the following new subparagraph:

23 “(C) stock in a passive foreign corporation
24 (as defined in section 1296) if section 1293 ap-
25 plies to such sale,”.

1 (c) TREATMENT OF MARK-TO-MARKET GAIN UNDER
2 SECTION 4982.—

3 (1) Subsection (e) of section 4982 is amended
4 by adding at the end thereof the following new para-
5 graph:

6 “(6) TREATMENT OF GAIN RECOGNIZED UNDER
7 SECTION 1291.—For purposes of determining a regu-
8 lated investment company’s ordinary income—

9 “(A) notwithstanding paragraph (1)(C),
10 section 1291 shall be applied as if such compa-
11 ny’s taxable year ended on October 31, and

12 “(B) any ordinary gain or loss from an ac-
13 tual disposition of stock in a passive foreign
14 corporation during the portion of the calendar
15 year after October 31 shall be taken into ac-
16 count in determining such company’s ordinary
17 income for the following calendar year.

18 In the case of a company making an election under
19 paragraph (4), the preceding sentence shall be ap-
20 plied by substituting the last day of the company’s
21 taxable year for October 31.”

22 (2) Subsection (b) of section 852 is amended by
23 adding at the end thereof the following new para-
24 graph:

1 “(10) SPECIAL RULE FOR CERTAIN LOSSES ON
2 STOCK IN PASSIVE FOREIGN CORPORATIONS.—To
3 the extent provided in regulations, the taxable in-
4 come of a regulated investment company (other than
5 a company to which an election under section
6 4982(e)(4) applies) shall be computed without re-
7 gard to any net reduction in the value of any stock
8 of a passive foreign corporation to which section
9 1291 applies occurring after October 31 of the tax-
10 able year, and any such reduction shall be treated as
11 occurring on the first day of the following taxable
12 year.”

13 (3) Subsection (c) of section 852 is amended by
14 inserting after “October 31 of such year” the follow-
15 ing: “, without regard to any net reduction in the
16 value of any stock of a passive foreign corporation
17 to which section 1291 applies occurring after Octo-
18 ber 31 of such year,”.

19 (d) TREATMENT OF CERTAIN PREVIOUSLY TAXED
20 AMOUNTS.—Subsection (e) of section 959 is amended—

21 (1) by adding at the end thereof the following
22 new sentence: “A similar rule shall apply in the case
23 of amounts included in gross income under section
24 1293 (as in effect on January 1, 1993).”, and

1 (2) by striking “AMOUNTS PREVIOUSLY TAXED
2 UNDER SECTION 1248” in the subsection heading
3 and inserting “CERTAIN PREVIOUSLY TAXED
4 AMOUNTS”.

5 **SEC. 403. TECHNICAL AND CONFORMING AMENDMENTS.**

6 (a) GENERAL RULE.—

7 (1) Paragraph (2) of section 171(c) is amend-
8 ed—

9 (A) by striking “, or by a foreign personal
10 holding company, as defined in section 552”,
11 and

12 (B) by striking “, or a foreign personal
13 holding company”.

14 (2) Section 312 is amended by striking sub-
15 section (j).

16 (3) Subsection (m) of section 312 is amended
17 by striking “, a foreign investment company (within
18 the meaning of section 1246(b)), or a foreign per-
19 sonal holding company (within the meaning of sec-
20 tion 552)” and inserting “or a passive foreign cor-
21 poration (as defined in section 1296)”.

22 (4) Subsection (e) of section 443 is amended by
23 striking paragraph (3) and by redesignating para-
24 graphs (4) and (5) as paragraphs (3) and (4), re-
25 spectively.

1 (5) Clause (ii) of section 465(c)(7)(B) is
2 amended to read as follows:

3 “(ii) a passive foreign corporation
4 with respect to which the stock ownership
5 requirements of section 1292(a)(2)(B) are
6 met, or”.

7 (6) Subsection (b) of section 535 is amended by
8 striking paragraph (9).

9 (7) Subsection (d) of section 535 is hereby re-
10 pealed.

11 (8) Paragraph (1) of section 543(b) is amended
12 by inserting “and” at the end of subparagraph (A),
13 by striking “, and” at the end of subparagraph (B)
14 and inserting a period, and by striking subparagraph
15 (C).

16 (9) Paragraph (1) of section 562(b) is amended
17 by striking “or a foreign personal holding company
18 described in section 552”.

19 (10) Section 563 is amended—

20 (A) by striking subsection (c),

21 (B) by redesignating subsection (d) as sub-
22 section (c), and

23 (C) by striking “subsection (a), (b), or (c)”
24 in subsection (c) (as so redesignated) and in-
25 serting “subsection (a) or (b)”.

1 (11) Paragraph (2) of section 751(d) is amend-
2 ed by striking “subsection (a) of section 1246 (relat-
3 ing to gain on foreign investment company stock)”
4 and inserting “section 1291 (relating to stock in cer-
5 tain passive foreign corporations marked to mar-
6 ket)”.

7 (12) Subsection (b) of section 851 is amended
8 by striking the sentence following paragraph (4)(B)
9 which contains a reference to section 1293(a).

10 (13) Clause (ii) of section 864(b)(2)(A) is
11 amended by striking “(other than” and all that fol-
12 lows down through “holding company)” and insert-
13 ing “(other than a corporation which would be a
14 personal holding company but for section 542(c)(5)
15 and which is not United States controlled (as de-
16 fined in section 1292(a)(2))”.

17 (14) Subsection (d) of section 904 is amended
18 by striking paragraphs (2)(A)(ii), (2)(E)(iii), and
19 (3)(I).

20 (15)(A) Subparagraph (A) of section 904(g)(1)
21 is amended to read as follows:

22 “(A) Any amount included in gross income
23 under section 951(a) (relating to amounts in-
24 cluded in gross income of United States share-
25 holders).”

1 (B) The paragraph heading of paragraph (2) of
2 section 904(g) is amended by striking “AND FOR-
3 EIGN PERSONAL HOLDING OR PASSIVE FOREIGN IN-
4 VESTMENT COMPANY”.

5 (16) Section 951 is amended by striking sub-
6 sections (c), (d), and (f), and by redesignating sub-
7 section (e) as subsection (c).

8 (17) Paragraph (1) of section 986(c) is amend-
9 ed by striking “or 1293(c)”.

10 (18) Paragraph (3) of section 989(b) is amend-
11 ed by striking “, 551(a), or 1293(a)”.

12 (19) Paragraph (5) of section 1014(b) is hereby
13 repealed.

14 (20) Subsection (a) of section 1016 is amended
15 by striking paragraph (13) and by redesignating the
16 following paragraphs accordingly.

17 (21) Paragraph (3) of section 1212(a) is
18 amended—

19 (A) by striking subparagraph (A),

20 (B) by redesignating subparagraphs (B)
21 and (C) as subparagraphs (A) and (B), respec-
22 tively, and

23 (C) by amending subparagraph (D) to read
24 as follows:

1 “(C) for which it is a passive foreign cor-
2 poration.”

3 (22) Section 1223 is amended by striking para-
4 graph (10) and by redesignating the following para-
5 graphs accordingly.

6 (23) Subsection (d) of section 1248 is amended
7 by striking paragraphs (5) and (7).

8 (24)(A) Subsection (a) of section 6035 is
9 amended by striking “foreign personal holding com-
10 pany (as defined in section 552)” and inserting
11 “passive foreign corporation with respect to which
12 the stock ownership requirements of section
13 1292(a)(2)(B) are met”.

14 (B) The section heading for section 6035 is
15 amended by striking “**FOREIGN PERSONAL**
16 **HOLDING COMPANIES**” and inserting
17 “**CLOSELY HELD PASSIVE FOREIGN**
18 **CORPORATIONS**”.

19 (C) The table of sections for subpart A of part
20 III of subchapter A of chapter 61 is amended by
21 striking “foreign personal holding companies” in the
22 item relating to section 6035 and inserting “closely-
23 held passive foreign corporations”.

24 (25) Subparagraph (D) of section 6103(e)(1) is
25 amended by striking clause (iv) and redesignating

1 clauses (v) and (vi) as clauses (iv) and (v), respec-
2 tively.

3 (26) Subparagraph (B) of section 6501(e)(1) is
4 amended to read as follows:

5 “(B) CONSTRUCTIVE DIVIDENDS.—If the
6 taxpayer omits from gross income an amount
7 properly includible therein under section
8 951(a), the tax may be assessed, or a proceed-
9 ing in court for the collection of such tax may
10 be done without assessing, at any time within
11 6 years after the return was filed.”

12 (27) Section 4947 and section 4948(c)(4) are
13 each amended by striking “556(b)(2),” each place it
14 appears.

15 (b) CLERICAL AMENDMENTS.—

16 (1) The table of parts for subchapter G of
17 chapter 1 is amended by striking the item relating
18 to part III.

19 (2) The table of sections for part IV of sub-
20 chapter P of chapter 1 is amended by striking the
21 items relating to sections 1246 and 1247.

22 (3) The table of parts for subchapter P of chap-
23 ter 1 is amended by striking the item relating to
24 part VI and inserting the following:

“Part VI. Treatment of passive foreign corporations.”

1 **SEC. 404. EFFECTIVE DATE.**

2 (a) GENERAL RULE.—Except as otherwise provided
3 in this section, the amendments made by this subtitle shall
4 apply to—

5 (1) taxable years of United States persons be-
6 ginning after December 31, 1993, and

7 (2) taxable years of foreign corporations ending
8 with or within such taxable years of United States
9 persons.

10 (b) DENIAL OF INSTALLMENT SALES TREATMENT.—
11 The amendment made by section 402(b) shall apply to dis-
12 positions after December 31, 1993.

13 (c) BASIS RULE.—The amendments made by this
14 subtitle shall not affect the determination of the basis of
15 any stock acquired from a decedent in a taxable year be-
16 ginning before January 1, 1994.

17 (d) STUDY.—

18 (1) IN GENERAL.—The Secretary of the Treas-
19 ury shall conduct a study of the tax treatment for
20 purposes of the rules applicable to passive foreign
21 corporations (as amended by this subtitle) of securi-
22 ties sale and repurchase transactions and securities
23 lending and borrowing transactions.

24 (2) REPORT.—Not later than the day 1 year
25 after the date of the enactment of this Act, the Sec-
26 retary of the Treasury shall submit to the Commit-

tee on Ways and Means of the House of Representatives and the Committee on Finance a report on the study conducted under this subsection, together with such recommendations as he may deem advisable.

Subtitle B—Treatment of Controlled Foreign Corporations

SEC. 411. GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.

(a) GENERAL RULE.—Section 964 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

“(f) GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.—

“(1) IN GENERAL.—If a controlled foreign corporation sells or exchanges stock in any other foreign corporation, gain recognized on such sale or exchange shall be included in the gross income of such controlled foreign corporation as a dividend to the same extent that it would have been so included under section 1248(a) if such controlled foreign corporation were a United States person. For purposes of determining the amount which would have been so includible, the determination of whether such other

1 foreign corporation was a controlled foreign corpora-
2 tion shall be made without regard to the preceding
3 sentence.

4 “(2) SAME COUNTRY EXCEPTION NOT APPLICA-
5 BLE.—Clause (i) of section 954(c)(3)(A) shall not
6 apply to any amount treated as a dividend by reason
7 of paragraph (1).

8 “(3) CLARIFICATION OF DEEMED SALES.—For
9 purposes of this subsection, a controlled foreign cor-
10 poration shall be treated as having sold or ex-
11 changed any stock if, under any provision of this
12 subtitle, such controlled foreign corporation is treat-
13 ed as having gain from the sale or exchange of such
14 stock.”.

15 (b) AMENDMENT OF SECTION 904(d).—Clause (i) of
16 section 904(d)(2)(E) is amended by striking “and except
17 as provided in regulations, the taxpayer was a United
18 States shareholder in such corporation”.

19 (c) EFFECTIVE DATES.—

20 (1) The amendment made by subsection (a)
21 shall apply to gain recognized on transactions occur-
22 ring after the date of the enactment of this Act.

23 (2) The amendment made by subsection (b)
24 shall apply to distributions after the date of the en-
25 actment of this Act.

1 **SEC. 412. AUTHORITY TO PRESCRIBE SIMPLIFIED METHOD**
2 **FOR APPLYING SECTION 960(b)(2).**

3 (a) GENERAL RULE.—Paragraph (2) of section
4 960(b) is amended by adding at the end thereof the follow-
5 ing new sentence: “The Secretary may prescribe regula-
6 tions requiring the use of simplified methods set forth in
7 such regulations for determining the amount of the in-
8 crease referred to in the preceding sentence.”

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall take effect on the date of the enact-
11 ment of this Act.

12 **SEC. 413. MISCELLANEOUS MODIFICATIONS TO SUBPART**
13 **F.**

14 (a) SECTION 1248 GAIN TAKEN INTO ACCOUNT IN
15 DETERMINING PRO RATA SHARE.—

16 (1) IN GENERAL.—Paragraph (2) of section
17 951(a) (defining pro rata share of subpart F in-
18 come) is amended by adding at the end thereof the
19 following new sentence: “For purposes of subpara-
20 graph (B), any gain included in the gross income of
21 any person as a dividend under section 1248 shall
22 be treated as a distribution received by such person
23 with respect to the stock involved.”

24 (2) EFFECTIVE DATE.—The amendment made
25 by paragraph (1) shall apply to dispositions after the
26 date of the enactment of this Act.

1 (b) BASIS ADJUSTMENTS IN STOCK HELD BY FOR-
2 EIGN CORPORATION.—

3 (1) IN GENERAL.—Section 961 (relating to ad-
4 justments to basis of stock in controlled foreign cor-
5 porations and of other property) is amended by add-
6 ing at the end thereof the following new subsection:
7 “(c) BASIS ADJUSTMENTS IN STOCK HELD BY FOR-
8 EIGN CORPORATION.—Under regulations prescribed by
9 the Secretary, if a United States shareholder is treated
10 under section 958(a)(2) as owning any stock in a con-
11 trolled foreign corporation which is actually owned by an-
12 other controlled foreign corporation, adjustments similar
13 to the adjustments provided by subsections (a) and (b)
14 shall be made to the basis of such stock in the hands of
15 such other controlled foreign corporation, but only for the
16 purposes of determining the amount included under sec-
17 tion 951 in the gross income of such United States share-
18 holder (or any other United States shareholder who ac-
19 quires from any person any portion of the interest of such
20 United States shareholder by reason of which such share-
21 holder was treated as owning such stock, but only to the
22 extent of such portion, and subject to such proof of iden-
23 tity of such interest as the Secretary may prescribe by reg-
24 ulations).”

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) shall apply for purposes of deter-
3 mining inclusions for taxable years of United States
4 shareholders beginning after December 31, 1993.

5 (c) DETERMINATION OF PREVIOUSLY TAXED IN-
6 COME IN SECTION 304 DISTRIBUTIONS, ETC.—

7 (1) IN GENERAL.—Section 959 (relating to ex-
8 clusion from gross income of previously taxed earn-
9 ings and profits) is amended by adding at the end
10 thereof the following new subsection:

11 “(f) ADJUSTMENTS FOR CERTAIN TRANSACTIONS.—
12 If by reason of—

13 “(1) a transaction to which section 304 applies,

14 “(2) the structure of a United States sharehold-
15 er’s holdings in controlled foreign corporations, or

16 “(3) other circumstances,

17 there would be a multiple inclusion of any item in income
18 (or an inclusion or exclusion without an appropriate basis
19 adjustment) by reason of this subpart, the Secretary may
20 prescribe regulations providing such modifications in the
21 application of this subpart as may be necessary to elimi-
22 nate such multiple inclusion or provide such basis adjust-
23 ment, as the case may be.”

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) shall take effect on the date of the
3 enactment of this Act.

4 (d) CLARIFICATION OF TREATMENT OF BRANCH TAX
5 EXEMPTIONS OR REDUCTIONS.—

6 (1) IN GENERAL.—Subsection (b) of section
7 952 is amended by adding at the end thereof the fol-
8 lowing new sentence: “For purposes of this sub-
9 section, any exemption (or reduction) with respect to
10 the tax imposed by section 884 shall not be taken
11 into account.”

12 (2) EFFECTIVE DATE.—The amendment made
13 by paragraph (1) shall apply to taxable years begin-
14 ning after December 31, 1986.

15 **SEC. 414. INDIRECT FOREIGN TAX CREDIT ALLOWED FOR**
16 **CERTAIN LOWER TIER COMPANIES.**

17 (a) SECTION 902 CREDIT.—

18 (1) IN GENERAL.—Subsection (b) of section
19 902 (relating to deemed taxes increased in case of
20 certain 2nd and 3rd tier foreign corporations) is
21 amended to read as follows:

22 “(b) DEEMED TAXES INCREASED IN CASE OF CER-
23 TAIN LOWER TIER CORPORATIONS.—

24 “(1) IN GENERAL.—If—

1 “(A) any foreign corporation is a member
2 of a qualified group, and

3 “(B) such foreign corporation owns 10 per-
4 cent or more of the voting stock of another
5 member of such group from which it receives
6 dividends in any taxable year,
7 such foreign corporation shall be deemed to have
8 paid the same proportion of such other member’s
9 post-1986 foreign income taxes as would be deter-
10 mined under subsection (a) if such foreign corpora-
11 tion were a domestic corporation.

12 “(2) QUALIFIED GROUP.—For purposes of
13 paragraph (1), the term ‘qualified group’ means—

14 “(A) the foreign corporation described in
15 subsection (a), and

16 “(B) any other foreign corporation if—

17 “(i) the domestic corporation owns at
18 least 5 percent of the voting stock of such
19 other foreign corporation indirectly
20 through a chain of foreign corporations
21 connected through stock ownership of at
22 least 10 percent of their voting stock,

23 “(ii) the foreign corporation described
24 in subsection (a) is the first tier corpora-
25 tion in such chain, and

1 “(iii) such other corporation is not
2 below the sixth tier in such chain,

3 The term ‘qualified group’ shall not include any for-
4 foreign corporation below the third tier in the chain re-
5 ferred to in clause (i) unless such foreign corpora-
6 tion is a controlled foreign corporation (as defined in
7 section 957) and the domestic corporation is a Unit-
8 ed States shareholder (as defined in section 951(b))
9 in such foreign corporation. Paragraph (1) shall
10 apply to those taxes paid by a member of the quali-
11 fied group below the third tier only with respect to
12 periods during which it was a controlled foreign cor-
13 poration.”

14 (2) CONFORMING AMENDMENTS.—

15 (A) Subparagraph (B) of section 902(c)(3)
16 is amended by adding “or” at the end of clause
17 (i) and by striking clauses (ii) and (iii) and in-
18 serting the following new clause:

19 “(ii) the requirements of subsection
20 (b)(2) are met with respect to such foreign
21 corporation.”

22 (B) Subparagraph (B) of section 902(c)(4)
23 is amended by striking “3rd foreign corpora-
24 tion” and inserting “sixth tier foreign corpora-
25 tion”.

1 (C) The heading for paragraph (3) of sec-
2 tion 902(c) is amended by striking “WHERE DO-
3 MESTIC CORPORATION ACQUIRES 10 PERCENT
4 OF FOREIGN CORPORATION” and inserting
5 “WHERE FOREIGN CORPORATION FIRST QUALI-
6 FIES”.

7 (D) Paragraph (3) of section 902(c) is
8 amended by striking “ownership” each place it
9 appears.

10 (b) SECTION 960 CREDIT.—Paragraph (1) of section
11 960(a) (relating to special rules for foreign tax credits)
12 is amended to read as follows:

13 “(1) DEEMED PAID CREDIT.—For purposes of
14 subpart A of this part, if there is included under
15 section 951(a) in the gross income of a domestic cor-
16 poration any amount attributable to earnings and
17 profits of a foreign corporation which is a member
18 of a qualified group (as defined in section 902(b))
19 with respect to the domestic corporation, then, ex-
20 cept to the extent provided in regulations, section
21 902 shall be applied as if the amount so included
22 were a dividend paid by such foreign corporation
23 (determined by applying section 902(c) in accord-
24 ance with section 904(d)(3)(B)).”

25 (c) EFFECTIVE DATE.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply to taxes of foreign corpora-
3 tions for taxable years of such corporations begin-
4 ning after the date of enactment of this Act.

5 (2) SPECIAL RULE.—In the case of any chain
6 of foreign corporations described in clauses (i) and
7 (ii) of section 902(b)(2)(B) of the Internal Revenue
8 Code of 1986 (as amended by this section), no liq-
9 uidation, reorganization, or similar transaction in a
10 taxable year beginning after the date of the enact-
11 ment of this Act shall have the effect of permitting
12 taxes to be taken into account under section 902 of
13 the Internal Revenue Code of 1986 which could not
14 have been taken into account under such section but
15 for such transaction.

16 **SEC. 415. STUDY ON INVESTMENTS BY CONTROLLED FOR-**
17 **EIGN CORPORATION IN UNITED STATES**
18 **PROPERTY.**

19 (a) GENERAL RULE.—The Secretary of the Treasury
20 shall conduct a study on tax treatment of investments by
21 controlled foreign corporations in obligations of United
22 States persons other than corporations. Such study shall
23 include the Secretary's views as to whether the treatment
24 of such investments should be changed, along with a dis-

1 cussion of the merits and consequences of any such
2 change.

3 (b) REPORT.—Not later than December 31, 1993,
4 the Secretary of the Treasury shall submit to the Commit-
5 tee on Ways and Means of the House of Representatives
6 and the Committee on Finance a report on the study con-
7 ducted under this subsection, together with such rec-
8 ommendations as he may deem advisable.

9 **Subtitle C—Other Provisions**

10 **SEC. 421. EXCHANGE RATE USED IN TRANSLATING FOR-** 11 **EIGN TAXES.**

12 (a) ACCRUED TAXES TRANSLATED BY USING AVER-
13 AGE RATE FOR YEAR TO WHICH TAXES RELATE.—

14 (1) IN GENERAL.—Subsection (a) of section
15 986 (relating to translation of foreign taxes) is
16 amended to read as follows:

17 “(a) FOREIGN INCOME TAXES.—

18 “(1) TRANSLATION OF ACCRUED TAXES.—

19 “(A) IN GENERAL.—For purposes of deter-
20 mining the amount of the foreign tax credit, in
21 the case of a taxpayer who takes foreign income
22 taxes into account when accrued, the amount of
23 any foreign income taxes (and any adjustment
24 thereto) shall be translated into dollars by using

1 the average exchange rate for the taxable year
2 to which such taxes relate.

3 “(B) EXCEPTION FOR TAXES NOT PAID
4 WITHIN FOLLOWING 2 YEARS.—

5 “(i) Subparagraph (A) shall not apply
6 to any foreign income taxes paid after the
7 date 2 years after the close of the taxable
8 year to which such taxes relate.

9 “(ii) Subparagraph (A) shall not
10 apply to taxes paid before the beginning of
11 the taxable year to which such taxes relate.

12 “(C) EXCEPTION FOR INFLATIONARY CUR-
13 RENCIES.—To the extent provided in regula-
14 tions, subparagraph (A) shall not apply to any
15 foreign income taxes the liability for which is
16 denominated in any currency determined to be
17 an inflationary currency under such regulations.

18 “(D) CROSS REFERENCE.—

“**For adjustments where tax is not paid within 2
years, see section 905(c).**

19 “(2) TRANSLATION OF TAXES TO WHICH PARA-
20 GRAPH (1) DOES NOT APPLY.—For purposes of de-
21 termining the amount of the foreign tax credit, in
22 the case of any foreign income taxes to which sub-
23 paragraph (A) of paragraph (1) does not apply—

1 “(A) such taxes shall be translated into
2 dollars using the exchange rates as of the time
3 such taxes were paid to the foreign country or
4 possession of the United States, and

5 “(B) any adjustment to the amount of
6 such taxes shall be translated into dollars
7 using—

8 “(i) except as provided in clause (ii),
9 the exchange rate as of the time when such
10 adjustment is paid to the foreign country
11 or possession, or

12 “(ii) in the case of any refund or cred-
13 it of foreign income taxes, using the ex-
14 change rate as of the time of the original
15 payment of such foreign income taxes.

16 “(3) FOREIGN INCOME TAXES.—For purposes
17 of this subsection, the term ‘foreign income taxes’
18 means any income, war profits, or excess profits
19 taxes paid or accrued to any foreign country or to
20 any possession of the United States.”

21 (2) ADJUSTMENT WHEN NOT PAID WITHIN 2
22 YEARS AFTER YEAR TO WHICH TAXES RELATE.—
23 Subsection (c) of section 905 is amended to read as
24 follows:

25 “(c) ADJUSTMENTS TO ACCRUED TAXES.—

1 “(1) IN GENERAL.—If—

2 “(A) accrued taxes when paid differ from
3 the amounts claimed as credits by the taxpayer,

4 “(B) accrued taxes are not paid before the
5 date 2 years after the close of the taxable year
6 to which such taxes relate, or

7 “(C) any tax paid is refunded in whole or
8 in part,

9 the taxpayer shall notify the Secretary, who shall re-
10 determine the amount of the tax for the year or
11 years affected.

12 “(2) SPECIAL RULE FOR TAXES NOT PAID
13 WITHIN 2 YEARS.—In making the redetermination
14 under paragraph (1), no credit shall be allowed for
15 accrued taxes not paid before the date referred to in
16 subparagraph (B) of paragraph (1). Any such taxes
17 if subsequently paid shall be taken into account for
18 the taxable year in which paid and no redetermina-
19 tion under this section shall be made on account of
20 such payment.

21 “(3) ADJUSTMENTS.—The amount of tax due
22 on any redetermination under paragraph (1) (if any)
23 shall be paid by the taxpayer on notice and demand
24 by the Secretary, and the amount of tax overpaid (if
25 any) shall be credited or refunded to the taxpayer in

1 accordance with subchapter B of chapter 66 (section
2 6511 et seq.).

3 “(4) BOND REQUIREMENTS.—In the case of
4 any tax accrued but not paid, the Secretary, as a
5 condition precedent to the allowance of the credit
6 provided in this subpart, may require the taxpayer
7 to give a bond, with sureties satisfactory to and ap-
8 proved by the Secretary, in such sum as the Sec-
9 retary may require, conditioned on the payment by
10 the taxpayer of any amount of tax found due on any
11 such redetermination. Any such bond shall contain
12 such further conditions as the Secretary may re-
13 quire.

14 “(5) OTHER SPECIAL RULES.—In any redeter-
15 mination under paragraph (1) by the Secretary of
16 the amount of tax due from the taxpayer for the
17 year or years affected by a refund, the amount of
18 the taxes refunded for which credit has been allowed
19 under this section shall be reduced by the amount of
20 any tax described in section 901 imposed by the for-
21 eign country or possession of the United States with
22 respect to such refund; but no credit under this sub-
23 part, or deduction under section 164, shall be al-
24 lowed for any taxable year with respect to any such
25 tax imposed on the refund. No interest shall be as-

1 sessed or collected on any amount of tax due on any
2 redetermination by the Secretary, resulting from a
3 refund to the taxpayer, for any period before the re-
4 ceipt of such refund, except to the extent interest
5 was paid by the foreign country or possession of the
6 United States on such refund for such period.”

7 (b) AUTHORITY TO USE AVERAGE RATES.—

8 (1) IN GENERAL.—Subsection (a) of section
9 986 (relating to foreign taxes) is amended by adding
10 at the end thereof the following new paragraph:

11 “(3) AUTHORITY TO PERMIT USE OF AVERAGE
12 RATES.—To the extent prescribed in regulations, the
13 average exchange rate for the period (specified in
14 such regulations) during which the taxes or adjust-
15 ment is paid may be used instead of the exchange
16 rate as of the time of such payment.”

17 (2) DETERMINATION OF AVERAGE RATES.—
18 Subsection (c) of section 989 is amended by striking
19 “and” at the end of paragraph (4), by striking the
20 period at the end of paragraph (5) and inserting “,
21 and”, and by adding at the end thereof the following
22 new paragraph:

23 “(6) setting forth procedures for determining
24 the average exchange rate for any period.”

1 (3) CONFORMING AMENDMENTS.—Subsection
2 (b) of section 989 is amended by striking “weight-
3 ed” each place it appears.

4 (c) EFFECTIVE DATES.—

5 (1) IN GENERAL.—The amendments made by
6 subsections (a)(1) and (b) shall apply to taxes paid
7 or accrued in taxable years beginning after Decem-
8 ber 31, 1992.

9 (2) SUBSECTION (a)(2).—The amendment made
10 by subsection (a)(2) shall apply to taxes which relate
11 to taxable years beginning after December 31, 1992.

12 **SEC. 422. ELECTION TO USE SIMPLIFIED SECTION 904 LIM-**
13 **ITATION FOR ALTERNATIVE MINIMUM TAX.**

14 (a) GENERAL RULE.—Subsection (a) of section 59
15 (relating to alternative minimum tax foreign tax credit)
16 is amended by adding at the end thereof the following new
17 paragraph:

18 “(3) ELECTION TO USE SIMPLIFIED SECTION
19 904 LIMITATION.—

20 “(A) IN GENERAL.—In determining the al-
21 ternative minimum tax foreign tax credit for
22 any taxable year to which an election under this
23 paragraph applies—

24 “(i) subparagraph (B) of paragraph
25 (1) shall not apply, and

1 “(ii) the limitation of section 904
2 shall be based on the proportion which—

3 “(I) the taxpayer’s taxable in-
4 come (as determined for purposes of
5 the regular tax) from sources without
6 the United States (but not in excess
7 of the taxpayer’s entire alternative
8 minimum taxable income), bears to

9 “(II) the taxpayer’s entire alter-
10 native minimum taxable income for
11 the taxable year.

12 “(B) ELECTION.—

13 “(i) IN GENERAL.—An election under
14 this paragraph may be made only for the
15 taxpayer’s first taxable year which begins
16 after December 31, 1993, and for which
17 the taxpayer claims an alternative mini-
18 mum tax foreign tax credit.

19 “(ii) ELECTION REVOCABLE ONLY
20 WITH CONSENT.—An election under this
21 paragraph, once made, shall apply to the
22 taxable year for which made and all subse-
23 quent taxable years unless revoked with
24 the consent of the Secretary.”

1 (b) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to taxable years beginning after
 3 December 31, 1993.

4 **SEC. 423. MODIFICATION OF SECTION 1491.**

5 (a) GENERAL RULE.—So much of chapter 5 (relating
 6 to tax on transfers to avoid income tax) as precedes sec-
 7 tion 1492 is amended to read as follows:

8 **“CHAPTER 5—TREATMENT OF TRANSFERS**
 9 **TO AVOID INCOME TAX**

“Sec. 1491. Recognition of gain.

“Sec. 1492. Exceptions.

10 **“SEC. 1491. RECOGNITION OF GAIN.**

11 “In the case of any transfer of property by a United
 12 States person to a foreign corporation as paid-in surplus
 13 or as a contribution to capital, to a foreign estate or trust,
 14 or to a foreign partnership, for purposes of this subtitle,
 15 such transfer shall be treated as a sale or exchange for
 16 an amount equal to the fair market value of the property
 17 transferred, and the transferor shall recognize as gain the
 18 excess of—

19 “(1) the fair market value of the property so
 20 transferred, over

21 “(2) the adjusted basis (for purposes of deter-
 22 mining gain) of such property in the hands of the
 23 transferor.”

24 (b) CONFORMING AMENDMENTS.—

1 (1) Section 1057 is hereby repealed.

2 (2) Section 1492 is amended to read as follows:

3 **“SEC. 1492. EXCEPTIONS.**

4 “‘The provisions of section 1491 shall not apply—

5 “(1) If the transferee is an organization exempt
6 from income tax under part I of subchapter F of
7 chapter 1 (other than an organization described in
8 section 401(a)),

9 “(2) To a transfer described in section 367, or

10 “(3) To any other transfer, to the extent pro-
11 vided in regulations in accordance with principles
12 similar to the principles of section 367 or otherwise
13 consistent with the purpose of section 1491.”

14 (3) Section 1494 is hereby repealed.

15 (4) The table of sections for part IV of sub-
16 chapter O of chapter 1 is amended by striking the
17 item relating to section 1057.

18 (5) The table of chapters for subtitle A is
19 amended by striking “Tax on” in the item relating
20 to chapter 5 and inserting “Treatment of”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to transfers after the date of the
23 enactment of this Act.

1 **SEC. 424. MODIFICATION OF SECTION 367(b).**

2 (a) GENERAL RULE.—Paragraph (1) of section
3 367(b) is amended to read as follows:

4 “(1) IN GENERAL.—In the case of any trans-
5 action described in section 332, 351, 354, 355, 356,
6 or 361 in which the status of a foreign corporation
7 as a corporation is a general condition for non-
8 recognition by 1 or more of the parties to the trans-
9 action, income shall be required to be recognized to
10 the extent provided in regulations prescribed by the
11 Secretary which are necessary or appropriate to pre-
12 vent the avoidance of Federal income taxes. This
13 subsection shall not apply to a transaction in which
14 the foreign corporation is not treated as a corpora-
15 tion under subsection (a)(1).”

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply to transfers after December 31,
18 1993.

19 **TITLE V—TREATMENT OF**
20 **INTANGIBLES**

21 **SEC. 501. AMORTIZATION OF GOODWILL AND CERTAIN**
22 **OTHER INTANGIBLES.**

23 (a) GENERAL RULE.—Part VI of subchapter B of
24 chapter 1 (relating to itemized deductions for individuals
25 and corporations) is amended by adding at the end thereof
26 the following new section:

1 **“SEC. 197. AMORTIZATION OF GOODWILL AND CERTAIN**
2 **OTHER INTANGIBLES.**

3 “(a) GENERAL RULE.—A taxpayer shall be entitled
4 to an amortization deduction with respect to any amortiz-
5 able section 197 intangible. The amount of such deduction
6 shall be determined by amortizing the adjusted basis (for
7 purposes of determining gain) of such intangible ratably
8 over the 14-year period beginning with the month in which
9 such intangible was acquired.

10 “(b) NO OTHER DEPRECIATION OR AMORTIZATION
11 DEDUCTION ALLOWABLE.—Except as provided in sub-
12 section (a), no depreciation or amortization deduction
13 shall be allowable with respect to any amortizable section
14 197 intangible.

15 “(c) AMORTIZABLE SECTION 197 INTANGIBLE.—For
16 purposes of this section—

17 “(1) IN GENERAL.—Except as otherwise pro-
18 vided in this section, the term ‘amortizable section
19 197 intangible’ means any section 197 intangible—

20 “(A) which is acquired by the taxpayer
21 after the date of the enactment of this section,
22 and

23 “(B) which is held in connection with the
24 conduct of a trade or business or an activity de-
25 scribed in section 212.

1 “(2) EXCLUSION OF SELF-CREATED INTANGI-
 2 BLES, ETC.—The term ‘amortizable section 197 in-
 3 tangible’ shall not include any section 197 intangi-
 4 ble—

5 “(A) which is not described in subpara-
 6 graph (D), (E), or (F) of subsection (d)(1), and

7 “(B) which is created by the taxpayer.

8 This paragraph shall not apply if the intangible is
 9 created in connection with a transaction (or series of
 10 related transactions) involving the acquisition of as-
 11 sets constituting a trade or business or substantial
 12 portion thereof.

13 “(3) ANTI-CHURNING RULES.—

**“For exclusion of intangibles acquired in certain
 transactions, see subsection (f)(9).**

14 “(d) SECTION 197 INTANGIBLE.—For purposes of
 15 this section—

16 “(1) IN GENERAL.—Except as otherwise pro-
 17 vided in this section, the term ‘section 197 intangi-
 18 ble’ means—

19 “(A) goodwill,

20 “(B) going concern value,

21 “(C) any of the following intangible items:

22 “(i) workforce in place including its
 23 composition and terms and conditions

1 (contractual or otherwise) of its employ-
2 ment,

3 “(ii) business books and records, oper-
4 ating systems, or any other information
5 base (including lists or other information
6 with respect to current or prospective cus-
7 tomers),

8 “(iii) any patent, copyright, formula,
9 process, design, pattern, knowhow, format,
10 or other similar item,

11 “(iv) any customer-based intangible,

12 “(v) any supplier-based intangible,
13 and

14 “(vi) any other similar item,

15 “(D) any license, permit, or other right
16 granted by a governmental unit or an agency or
17 instrumentality thereof,

18 “(E) any covenant not to compete (or
19 other arrangement to the extent such arrange-
20 ment has substantially the same effect as a cov-
21 enant not to compete) entered into in connec-
22 tion with an acquisition (directly or indirectly)
23 of an interest in a trade or business or substan-
24 tial portion thereof, and

1 “(F) any franchise, trademark, or trade
2 name.

3 “(2) CUSTOMER-BASED INTANGIBLE.—

4 “(A) IN GENERAL.—The term ‘customer-
5 based intangible’ means—

6 “(i) composition of market,

7 “(ii) market share, and

8 “(iii) any other value resulting from
9 future provision of goods or services pursu-
10 ant to relationships (contractual or other-
11 wise) in the ordinary course of business
12 with customers.

13 “(B) SPECIAL RULE FOR FINANCIAL INSTI-
14 TUTIONS.—In the case of a financial institu-
15 tion, the term ‘customer-based intangible’ in-
16 cludes deposit base and similar items.

17 “(3) SUPPLIER-BASED INTANGIBLE.—The term
18 ‘supplier-based intangible’ means any value resulting
19 from future acquisitions of goods or services pursu-
20 ant to relationships (contractual or otherwise) in the
21 ordinary course of business with suppliers of goods
22 or services to be used or sold by the taxpayer.

23 “(e) EXCEPTIONS.—For purposes of this section, the
24 term ‘section 197 intangible’ shall not include any of the
25 following:

1 “(1) FINANCIAL INTERESTS.—Any interest—

2 “(A) in a corporation, partnership, trust,
3 or estate, or

4 “(B) under an existing futures contract,
5 foreign currency contract, notional principal
6 contract, or other similar financial contract.

7 “(2) LAND.—Any interest in land.

8 “(3) COMPUTER SOFTWARE.—

9 “(A) IN GENERAL.—Any—

10 “(i) computer software which is read-
11 ily available for purchase by the general
12 public, is subject to a nonexclusive license,
13 and has not been substantially modified,
14 and

15 “(ii) other computer software which is
16 not acquired in a transaction (or series of
17 related transactions) involving the acquisi-
18 tion of assets constituting a trade or busi-
19 ness or substantial portion thereof.

20 “(B) COMPUTER SOFTWARE DEFINED.—

21 For purposes of subparagraph (A), the term
22 ‘computer software’ means any program de-
23 signed to cause a computer to perform a de-
24 sired function. Such term shall not include any
25 data base or similar item unless the data base

1 or item is in the public domain and is incidental
2 to the operation of otherwise qualifying com-
3 puter software.

4 “(4) CERTAIN INTERESTS OR RIGHTS AC-
5 QUIRED SEPARATELY.—Any of the following not ac-
6 quired in a transaction (or series of related trans-
7 actions) involving the acquisition of assets constitut-
8 ing a trade business or substantial portion thereof:

9 “(A) Any interest in a film, sound record-
10 ing, video tape, book, or similar property.

11 “(B) Any right to receive tangible property
12 or services under a contract or granted by a
13 governmental unit or agency or instrumentality
14 thereof.

15 “(C) Any interest in a patent or copyright.

16 “(D) To the extent provided in regulations,
17 any right under a contract (or granted by a
18 governmental unit or an agency or instrumen-
19 tality thereof) if such right—

20 “(i) has a fixed duration of less than
21 14 years, or

22 “(ii) is fixed as to amount and, with-
23 out regard to this section, would be recov-
24 erable under a method similar to the unit-
25 of-production method.

1 “(5) INTERESTS UNDER LEASES AND DEBT IN-
2 STRUMENTS.—Any interest under—

3 “(A) an existing lease of tangible property,
4 or

5 “(B) except as provided in subsection
6 (d)(2)(B), any existing indebtedness.

7 “(6) TREATMENT OF SPORTS FRANCHISES.—A
8 franchise to engage in professional football, basket-
9 ball, baseball, or other professional sport, and any
10 item acquired in connection with such a franchise.

11 “(7) CERTAIN TRANSACTION COSTS.—Any fees
12 for professional services, and any transaction costs,
13 incurred by parties to a transaction with respect to
14 which any portion of the gain or loss is not recog-
15 nized under part III of subchapter C.

16 “(f) SPECIAL RULES.—

17 “(1) TREATMENT OF CERTAIN DISPOSITIONS,
18 ETC.—If there is a disposition of any amortizable
19 section 197 intangible acquired in a transaction or
20 series of related transactions (or any such intangible
21 becomes worthless) and one or more other amortiz-
22 able section 197 intangibles acquired in such trans-
23 action or series of related transactions are re-
24 tained—

1 “(A) no loss shall be recognized by reason
2 of such disposition (or such worthlessness), and

3 “(B) appropriate adjustments to the ad-
4 justed bases of such retained intangibles shall
5 be made for any loss not recognized under sub-
6 paragraph (A).

7 All persons treated as a single taxpayer under sec-
8 tion 41(f)(1) shall be so treated for purposes of the
9 preceding sentence.

10 “(2) TREATMENT OF CERTAIN TRANSFERS.—

11 “(A) IN GENERAL.—In the case of any sec-
12 tion 197 intangible transferred in a transaction
13 described in subparagraph (B), the transferee
14 shall be treated as the transferor for purposes
15 of applying this section with respect to so much
16 of the adjusted basis in the hands of the trans-
17 feree as does not exceed the adjusted basis in
18 the hands of the transferor.

19 “(B) TRANSACTIONS COVERED.—The
20 transactions described in this subparagraph
21 are—

22 “(i) any transaction described in sec-
23 tion 332, 351, 361, 721, 731, 1031, or
24 1033, and

1 “(ii) any transaction between mem-
2 bers of the same affiliated group during
3 any taxable year for which a consolidated
4 return is made by such group.

5 “(3) TREATMENT OF AMOUNTS PAID PURSUANT
6 TO COVENANTS NOT TO COMPETE, ETC.—Any
7 amount paid or incurred pursuant to a covenant or
8 arrangement referred to in subsection (d)(1)(E)
9 shall be treated as an amount chargeable to capital
10 account.

11 “(4) TREATMENT OF FRANCHISES, ETC.—

12 “(A) FRANCHISE.—The term ‘franchise’
13 has the meaning given to such term by section
14 1253(b)(1).

15 “(B) TREATMENT OF RENEWALS.—Any
16 renewal of a franchise, trademark, or trade
17 name (or of a license, a permit, or other right
18 referred to in subsection (d)(1)(D)) shall be
19 treated as an acquisition. The preceding sen-
20 tence shall only apply with respect to costs in-
21 curred in connection with such renewal.

22 “(C) CERTAIN AMOUNTS NOT TAKEN INTO
23 ACCOUNT.—Any amount to which section
24 1253(d)(1) applies shall not be taken into ac-
25 count under this section.

1 “(5) TREATMENT OF CERTAIN REINSURANCE
2 TRANSACTIONS.—In the case of any amortizable sec-
3 tion 197 intangible resulting from an assumption re-
4 insurance transaction, the amount taken into ac-
5 count as the adjusted basis of such intangible under
6 this section shall be the excess of—

7 “(A) the amount paid or incurred by the
8 acquirer under the assumption reinsurance
9 transaction, over

10 “(B) the amount required to be capitalized
11 under section 848 in connection with such
12 transaction.

13 Subsection (b) shall not apply to any amount re-
14 quired to be capitalized under section 848.

15 “(6) TREATMENT OF CERTAIN SUBLEASES.—
16 For purposes of this section, a sublease shall be
17 treated in the same manner as a lease of the under-
18 lying property involved.

19 “(7) TREATMENT AS DEPRECIABLE.—For pur-
20 poses of this chapter, any amortizable section 197
21 intangible shall be treated as property which is of a
22 character subject to the allowance for depreciation
23 provided in section 167.

24 “(8) TREATMENT OF CERTAIN INCREMENTS IN
25 VALUE.—This section shall not apply to any incre-

1 ment in value if, without regard to this section, such
2 increment is properly taken into account in deter-
3 mining the cost of property which is not a section
4 197 intangible.

5 “(9) ANTI-CHURNING RULES.—For purposes of
6 this section—

7 “(A) IN GENERAL.—The term ‘amortizable
8 section 197 intangible’ shall not include any
9 section 197 intangible which is described in
10 subparagraph (A) or (B) of subsection (d)(1)
11 (or for which depreciation or amortization
12 would not have been allowable but for this sec-
13 tion) and which is acquired by the taxpayer
14 after the date of the enactment of this section,
15 if—

16 “(i) the intangible was held or used at
17 any time on or after July 25, 1991, and on
18 or before such date of enactment by the
19 taxpayer or a related person,

20 “(ii) the intangible was acquired from
21 a person who held such intangible at any
22 time on or after July 25, 1991, and on or
23 before such date of enactment, and, as
24 part of the transaction, the user of such
25 intangible does not change, or

1 “(iii) the taxpayer grants the right to
2 use such intangible to a person (or a per-
3 son related to such person) who held or
4 used such intangible at any time on or
5 after July 25, 1991, and on or before such
6 date of enactment.

7 For purposes of this subparagraph, the deter-
8 mination of whether the user of property
9 changes as part of a transaction shall be deter-
10 mined in accordance with regulations prescribed
11 by the Secretary. For purposes of this subpara-
12 graph, deductions allowable under section
13 1253(d) shall be treated as deductions allowable
14 for amortization.

15 “(B) EXCEPTION WHERE GAIN RECOG-
16 NIZED.—If—

17 “(i) subparagraph (A) would not
18 apply to an intangible acquired by the tax-
19 payer but for the last sentence of subpara-
20 graph (C)(i), and

21 “(ii) the person from whom the tax-
22 payer acquired the intangible elects, not-
23 withstanding any other provision of this
24 title—

1 “(I) to recognize gain on the dis-
2 position of the intangible, and

3 “(II) to pay a tax on such gain
4 which, when added to any other in-
5 come tax on such gain under this title,
6 equals such gain multiplied by the
7 highest rate of income tax applicable
8 to such person under this title,
9 then subparagraph (A) shall apply to the
10 intangible only to the extent that the tax-
11 payer’s adjusted basis in the intangible ex-
12 ceeds the gain recognized under clause
13 (ii)(I).

14 “(C) RELATED PERSON DEFINED.—For
15 purposes of this paragraph—

16 “(i) RELATED PERSON.—A person
17 (hereinafter in this paragraph referred to
18 as the ‘related person’) is related to any
19 person if—

20 “(I) the related person bears a
21 relationship to such person specified
22 in section 267(b) or section 707(b)(1),
23 or

24 “(II) the related person and such
25 person are engaged in trades or busi-

1 nesses under common control (within
2 the meaning of subparagraphs (A)
3 and (B) of section 41(f)(1)).

4 For purposes of subclause (I), in applying
5 section 267(b) or 707(b)(1), ‘20 percent’
6 shall be substituted for ‘50 percent’.

7 “(ii) TIME FOR MAKING DETERMINA-
8 TION.—A person shall be treated as related
9 to another person if such relationship ex-
10 ists immediately before or immediately
11 after the acquisition of the intangible in-
12 volved.

13 “(D) ACQUISITIONS BY REASON OF
14 DEATH.—Subparagraph (A) shall not apply to
15 the acquisition of any property by the taxpayer
16 if the basis of the property in the hands of the
17 taxpayer is determined under section 1014(a).

18 “(E) SPECIAL RULE FOR PARTNER-
19 SHIPS.—With respect to any increase in the
20 basis of partnership property under section 732,
21 734, or 743, determinations under this para-
22 graph shall be made at the partner level and
23 each partner shall be treated as having owned
24 and used such partner’s proportionate share of
25 the partnership assets.

1 “(F) ANTI-ABUSE RULES.—The term ‘am-
2 ortizable section 197 intangible’ does not in-
3 clude any section 197 intangible acquired in a
4 transaction, one of the principal purposes of
5 which is to avoid the requirement of subsection
6 (c)(1) that the intangible be acquired after the
7 date of the enactment of this section or to avoid
8 the provisions of subparagraph (A).

9 “(g) REGULATIONS.—The Secretary shall prescribe
10 such regulations as may be appropriate to carry out the
11 purposes of this section, including such regulations as may
12 be appropriate to prevent avoidance of the purposes of this
13 section through related persons or otherwise.”

14 (b) MODIFICATIONS TO DEPRECIATION RULES.—

15 (1) TREATMENT OF CERTAIN PROPERTY EX-
16 CLUDED FROM SECTION 197.—Section 167 (relating
17 to depreciation deduction) is amended by redesignat-
18 ing subsection (f) as subsection (g) and by inserting
19 after subsection (e) the following new subsection:

20 “(f) TREATMENT OF CERTAIN PROPERTY EXCLUDED
21 FROM SECTION 197.—

22 “(1) COMPUTER SOFTWARE.—

23 “(A) IN GENERAL.—If a depreciation de-
24 duction is allowable under subsection (a) with
25 respect to any computer software, such deduc-

1 tion shall be computed by using the straight
2 line method and a useful life of 36 months.

3 “(B) COMPUTER SOFTWARE.—For pur-
4 poses of this section, the term ‘computer soft-
5 ware’ has the meaning given to such term by
6 section 197(e)(3)(B); except that such term
7 shall not include any such software which is an
8 amortizable section 197 intangible.

9 “(2) CERTAIN INTERESTS OR RIGHTS AC-
10 QUIRED SEPARATELY.—If a depreciation deduction
11 is allowable under subsection (a) with respect to any
12 property described in subparagraph (B), (C), or (D)
13 of section 197(e)(4), such deduction shall be com-
14 puted in accordance with regulations prescribed by
15 the Secretary.”

16 (2) ALLOCATION OF BASIS IN CASE OF LEASED
17 PROPERTY.—Subsection (c) of section 167 is amend-
18 ed to read as follows:

19 “(c) BASIS FOR DEPRECIATION.—

20 “(1) IN GENERAL.—The basis on which exhaus-
21 tion, wear and tear, and obsolescence are to be al-
22 lowed in respect of any property shall be the ad-
23 justed basis provided in section 1011, for the pur-
24 pose of determining the gain on the sale or other
25 disposition of such property.

1 “(2) SPECIAL RULE FOR PROPERTY SUBJECT
2 TO LEASE.—If any property is acquired subject to a
3 lease—

4 “(A) no portion of the adjusted basis shall
5 be allocated to the leasehold interest, and

6 “(B) the entire adjusted basis shall be
7 taken into account in determining the deprecia-
8 tion deduction (if any) with respect to the prop-
9 erty subject to the lease.”

10 (c) AMENDMENTS TO SECTION 1253.—Subsection
11 (d) of section 1253 is amended by striking paragraphs (2),
12 (3), (4), and (5) and inserting the following:

13 “(2) OTHER PAYMENTS.—Any amount paid or
14 incurred on account of a transfer, sale, or other dis-
15 position of a franchise, trademark, or trade name to
16 which paragraph (1) does not apply shall be treated
17 as an amount chargeable to capital account.

18 “(3) RENEWALS, ETC.—For purposes of deter-
19 mining the term of a transfer agreement under this
20 section, there shall be taken into account all renewal
21 options (and any other period for which the parties
22 reasonably expect the agreement to be renewed).”

23 (d) AMENDMENT TO SECTION 848.—Subsection (g)
24 of section 848 is amended by striking “this section” and
25 inserting “this section or section 197”.

1 (e) AMENDMENTS TO SECTION 1060.—

2 (1) Paragraph (1) of section 1060(b) is amend-
3 ed by striking “goodwill or going concern value” and
4 inserting “section 197 intangibles”.

5 (2) Paragraph (1) of section 1060(d) is amend-
6 ed by striking “goodwill or going concern value (or
7 similar items)” and inserting “section 197 intangi-
8 bles”.

9 (f) TECHNICAL AND CONFORMING AMENDMENTS.—

10 (1) Subsection (g) of section 167 (as redesign-
11 nated by subsection (b)) is amended to read as fol-
12 lows:

13 “(g) CROSS REFERENCES.—

**“(1) For additional rule applicable to depreciation
of improvements in the case of mines, oil and gas
wells, other natural deposits, and timber, see sec-
tion 611.**

**“(2) For amortization of goodwill and certain
other intangibles, see section 197.”**

14 (2) Subsection (f) of section 642 is amended by
15 striking “section 169” and inserting “sections 169
16 and 197”.

17 (3) Subsection (a) of section 1016 is amended
18 by striking paragraph (19) and by redesignating the
19 following paragraphs accordingly.

20 (4) Subparagraph (C) of section 1245(a)(2) is
21 amended by striking “193, or 1253(d) (2) or (3)”
22 and inserting “or 193”.

1 (5) Paragraph (3) of section 1245(a) is amend-
2 ed by striking “section 185 or 1253(d) (2) or (3)”.

3 (6) The table of sections for part VI of sub-
4 chapter B of chapter 1 is amended by adding at the
5 end thereof the following new item:

“Sec. 197. Amortization of goodwill and certain other intangi-
bles.”

6 (g) EFFECTIVE DATE.—

7 (1) IN GENERAL.—Except as otherwise pro-
8 vided in this subsection, the amendments made by
9 this section shall apply with respect to property ac-
10 quired after the date of the enactment of this Act.

11 (2) ELECTION TO HAVE AMENDMENTS APPLY
12 TO PROPERTY ACQUIRED AFTER JULY 25, 1991.—

13 (A) IN GENERAL.—If an election under
14 this paragraph applies to the taxpayer—

15 (i) the amendments made by this sec-
16 tion shall apply to property acquired by the
17 taxpayer after July 25, 1991,

18 (ii) subsection (c)(1)(A) of section
19 197 of the Internal Revenue Code of 1986
20 (as added by this section) (and so much of
21 subsection (f)(9)(A) of such section 197 as
22 precedes clause (i) thereof) shall be applied
23 with respect to the taxpayer by treating

1 July 25, 1991, as the date of the enact-
2 ment of such section, and

3 (iii) in applying subsection (f)(9) of
4 such section, with respect to any property
5 acquired by the taxpayer on or before the
6 date of the enactment of this Act, only
7 holding or use on July 25, 1991, shall be
8 taken into account.

9 (B) ELECTION.—An election under this
10 paragraph shall be made at such time and in
11 such manner as the Secretary of the Treasury
12 or his delegate may prescribe. Such an election
13 by any taxpayer, once made—

14 (i) may be revoked only with the con-
15 sent of the Secretary, and

16 (ii) shall apply to the taxpayer making
17 such election and any other taxpayer under
18 common control with the taxpayer (within
19 the meaning of subparagraphs (A) and (B)
20 of section 41(f)(1) of such Code) at any
21 time after November 22, 1991, and on or
22 before the date on which such election is
23 made.

24 (3) ELECTIVE BINDING CONTRACT EXCEP-
25 TION.—

1 (A) IN GENERAL.—The amendments made
2 by this section shall not apply to any acquisi-
3 tion of property by the taxpayer if—

4 (i) such acquisition is pursuant to a
5 written binding contract in effect on the
6 date of the enactment of this Act and at
7 all times thereafter before such acquisition,

8 (ii) an election under paragraph (2)
9 does not apply to the taxpayer, and

10 (iii) the taxpayer makes an election
11 under this paragraph with respect to such
12 contract.

13 (B) ELECTION.—An election under this
14 paragraph shall be made at such time and in
15 such manner as the Secretary of the Treasury
16 or his delegate shall prescribe. Such an election,
17 once made—

18 (i) may be revoked only with the con-
19 sent of the Secretary, and

20 (ii) shall apply to all property ac-
21 quired pursuant to the contract with re-
22 spect to which such election was made.

23 (h) ANNUAL REPORTS.—The Secretary of the Treas-
24 ury shall submit annual reports to the Committee on Ways
25 and Means of the House of Representatives and the Com-

1 mittee on Finance of the Senate on the implementation
2 and effects of the amendments made by this section, in-
3 cluding the effects of such amendments on merger and
4 acquisition activities. The first such annual report shall
5 be submitted on or before December 31, 1994.

6 (i) ANNUAL REPORTS ON OUTSTANDING CASES.—
7 The Secretary of the Treasury shall submit annual reports
8 to the Committee on Ways and Means of the House of
9 Representatives and the Committee on Finance of the
10 Senate regarding the volume of cases still outstanding that
11 involve disputes regarding the amortization of intangibles,
12 progress made in resolving such cases, efforts made to co-
13 ordinate settlement proceedings, and factors inhibiting the
14 resolution of such cases. The report shall also address the
15 impact of the amendments made by this section on the
16 volume of disputes regarding the amortization of intangi-
17 bles. The first such annual report shall be submitted on
18 or before December 31, 1994.

19 **SEC. 502. TREATMENT OF CERTAIN PAYMENTS TO RE-**
20 **TIRED OR DECEASED PARTNER.**

21 (a) SECTION 736(b) NOT TO APPLY IN CERTAIN
22 CASES.—Subsection (b) of section 736 (relating to pay-
23 ments for interest in partnership) is amended by adding
24 at the end thereof the following new paragraph:

1 “(3) LIMITATION ON APPLICATION OF PARA-
2 GRAPH (2).—Paragraph (2) shall apply only if—

3 “(A) capital is not a material income-pro-
4 ducing factor for the partnership, and

5 “(B) the retiring or deceased partner was
6 a general partner in the partnership.”

7 (b) LIMITATION ON DEFINITION OF UNREALIZED
8 RECEIVABLES.—

9 (1) IN GENERAL.—Subsection (c) of section
10 751 (defining unrealized receivables) is amended—

11 (A) by striking “sections 731, 736, and
12 741” each place they appear and inserting “,
13 sections 731 and 741 (but not for purposes of
14 section 736)”, and

15 (B) by striking “section 731, 736, or 741”
16 each place it appears and inserting “section
17 731 or 741”.

18 (2) TECHNICAL AMENDMENTS.—

19 (A) Subsection (e) of section 751 is
20 amended by striking “sections 731, 736, and
21 741” and inserting “sections 731 and 741”.

22 (B) Section 736 is amended by striking
23 subsection (c).

24 (c) EFFECTIVE DATE.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply in the case of partners retir-
3 ing or dying on or after January 5, 1993.

4 (2) BINDING CONTRACT EXCEPTION.—The
5 amendments made by this section shall not apply to
6 any partner retiring on or after January 5, 1993, if
7 a written contract to purchase such partner’s inter-
8 est in the partnership was binding on January 4,
9 1993, and at all times thereafter before such pur-
10 chase.

11 **TITLE VI—OTHER INCOME TAX** 12 **PROVISIONS**

13 **Subtitle A—Provisions Relating to** 14 **Subchapter S Corporations**

15 **SEC. 601. AUTHORITY TO VALIDATE CERTAIN INVALID** 16 **ELECTIONS.**

17 (a) GENERAL RULE.—Subsection (f) of section 1362
18 (relating to inadvertent terminations) is amended to read
19 as follows:

20 “(f) INADVERTENT INVALID ELECTIONS OF TERMI-
21 NATIONS.—If—

22 “(1) an election under subsection (a) by any
23 corporation—

24 “(A) was not effective for the taxable year
25 for which made (determined without regard to

1 subsection (b)(2)) by reason of a failure to meet
2 the requirements of section 1361(b) or to ob-
3 tain shareholder consents, or

4 “(B) was terminated under paragraph (2)
5 or (3) of subsection (d),

6 “(2) the Secretary determines that the cir-
7 cumstances resulting in such ineffectiveness or ter-
8 mination were inadvertent,

9 “(3) no later than a reasonable period of time
10 after discovery of the circumstances resulting in
11 such ineffectiveness or termination, steps were
12 taken—

13 “(A) so that the corporation is a small
14 business corporation, or

15 “(B) to acquire the required shareholder
16 consents, and

17 “(4) the corporation, and each person who was
18 a shareholder in the corporation at any time during
19 the period specified pursuant to this subsection,
20 agrees to make such adjustments (consistent with
21 the treatment of the corporation as an S corpora-
22 tion) as may be required by the Secretary with re-
23 spect to such period,

24 then, notwithstanding the circumstances resulting in such
25 ineffectiveness or termination, such corporation shall be

1 treated as an S corporation during the period specified
2 by the Secretary.”

3 (b) LATE ELECTIONS.—Subsection (b) of section
4 1362 is amended by adding at the end thereof the follow-
5 ing new paragraph:

6 “(5) AUTHORITY TO TREAT LATE ELECTIONS
7 AS TIMELY.—If—

8 “(A) an election under subsection (a) is
9 made for any taxable year (determined without
10 regard to paragraph (3)) after the date pre-
11 scribed by this subsection for making such elec-
12 tion for such taxable year, and

13 “(B) the Secretary determines that there
14 was reasonable cause for the failure to timely
15 make such election,

16 the Secretary may treat such election as timely
17 made for such taxable year (and paragraph (3) shall
18 not apply).”

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply with respect to elections for taxable
21 years beginning after December 31, 1982.

22 **SEC. 602. TREATMENT OF DISTRIBUTIONS DURING LOSS**
23 **YEARS.**

24 (a) ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO
25 ACCOUNT BEFORE LOSSES.—

1 (1) Subparagraph (A) of section 1366(d)(1) is
2 amended by striking “paragraph (1)” and inserting
3 “paragraphs (1) and (2)(A)”.

4 (2) Subsection (d) of section 1368 is amended
5 by adding at the end thereof the following new sen-
6 tence:

7 “In the case of any distribution made during any taxable
8 year, the adjusted basis of the stock shall be determined
9 with regard to the adjustments provided in paragraph (1)
10 of section 1367(a) for the taxable year.”

11 (b) ACCUMULATED ADJUSTMENTS ACCOUNT.—Para-
12 graph (1) of section 1368(e) (relating to accumulated ad-
13 justments account) is amended by adding at the end there-
14 of the following new subparagraph:

15 “(C) NET LOSS FOR YEAR DISREGARDED.—

16 “(i) IN GENERAL.—In applying this section
17 to distributions made during any taxable year,
18 the amount in the accumulated adjustments ac-
19 count as of the close of such taxable year shall
20 be determined without regard to any net nega-
21 tive adjustment for such taxable year.

22 “(ii) NET NEGATIVE ADJUSTMENT.—For
23 purposes of clause (i), the term ‘net negative
24 adjustment’ means, with respect to any taxable
25 year, the excess (if any) of—

1 “(I) the reductions in the account for
2 the taxable year (other than for distribu-
3 tions), over

4 “(II) the increases in such account for
5 such taxable year.”

6 (c) CONFORMING AMENDMENTS.—Subparagraph (A)
7 of section 1368(e)(1) is amended—

8 (1) by striking “as provided in subparagraph
9 (B)” and inserting “as otherwise provided in this
10 paragraph”, and

11 (2) by striking “section 1367(b)(2)(A)” and in-
12 serting “section 1367(a)(2)”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to distributions in taxable years
15 beginning after December 31, 1992.

16 **SEC. 603. OTHER MODIFICATIONS.**

17 (a) TREATMENT OF S CORPORATIONS UNDER SUB-
18 CHAPTER C.—Subsection (a) of section 1371 (relating to
19 application of subchapter C rules) is amended to read as
20 follows:

21 “(a) APPLICATION OF SUBCHAPTER C RULES.—Ex-
22 cept as otherwise provided in this title, and except to the
23 extent inconsistent with this subchapter, subchapter C
24 shall apply to an S corporation and its shareholders.”

1 (b) S CORPORATIONS PERMITTED TO HOLD SUB-
2 SIDIARIES.—

3 (1) IN GENERAL.—Paragraph (2) of section
4 1361(b) (defining ineligible corporation) is amended
5 by striking subparagraph (A) and by redesignating
6 subparagraphs (B), (C), (D), and (E) as subpara-
7 graphs (A), (B), (C), and (D), respectively.

8 (2) CONFORMING AMENDMENTS.—

9 (A) Subsection (c) of section 1361 is
10 amended by striking paragraph (6).

11 (B) Subsection (b) of section 1504 (defin-
12 ing includible corporation) is amended by add-
13 ing at the end thereof the following new para-
14 graph:

15 “(8) An S corporation.”

16 (c) ELIMINATION OF PRE-1983 EARNINGS AND
17 PROFITS.—

18 (1) IN GENERAL.—If—

19 (A) a corporation was an electing small
20 business corporation under subchapter S of
21 chapter 1 of the Internal Revenue Code of 1986
22 for any taxable year beginning before January
23 1, 1983, and

24 (B) such corporation is an S corporation
25 under subchapter S of chapter 1 of such Code

1 for its first taxable year beginning after Decem-
2 ber 31, 1992,
3 the amount of such corporation's accumulated earn-
4 ings and profits (as of the beginning of such first
5 taxable year) shall be reduced by an amount equal
6 to the portion (if any) of such accumulated earnings
7 and profits which were accumulated in any taxable
8 year beginning before January 1, 1983, for which
9 such corporation was an electing small business cor-
10 poration under such subchapter S.

11 (2) CONFORMING AMENDMENTS.—

12 (A) Paragraph (3) of section 1362(d) is
13 amended—

14 (i) by striking “subchapter C” in the
15 paragraph heading and inserting “accumu-
16 lated”,

17 (ii) by striking “subchapter C” in
18 subparagraph (A)(i)(I) and inserting “ac-
19 cumulated”, and

20 (iii) by striking subparagraph (B) and
21 redesignating the following subparagraphs
22 accordingly.

23 (B)(i) Subsection (a) of section 1375 is
24 amended by striking “subchapter C” in para-
25 graph (1) and inserting “accumulated”.

1 (ii) Paragraph (3) of section 1375(b) is
2 amended to read as follows:

3 “(3) PASSIVE INVESTMENT INCOME, ETC.—The
4 terms ‘passive investment income’ and ‘gross re-
5 ceipts’ have the same respective meanings as when
6 used in paragraph (3) of section 1362(d).”

7 (iii) The section heading for section 1375
8 is amended by striking “**SUBCHAPTER C**”
9 and inserting “**ACCUMULATED**”.

10 (iv) The table of sections for part III of
11 subchapter S of chapter 1 is amended by strik-
12 ing “subchapter C” in the item relating to sec-
13 tion 1375 and inserting “accumulated”.

14 (C) Clause (i) of section 1042(c)(4)(A) is
15 amended by striking “section 1362(d)(3)(D)”
16 and inserting “section 1362(d)(3)(C)”.

17 (d) ADJUSTMENTS TO BASIS OF INHERITED S STOCK
18 TO REFLECT CERTAIN ITEMS OF INCOME.—Subsection
19 (b) of section 1367 (relating to adjustments to basis of
20 stock of shareholders, etc.) is amended by adding at the
21 end thereof the following new paragraph:

22 “(4) ADJUSTMENTS IN CASE OF INHERITED
23 STOCK.—

24 “(A) IN GENERAL.—If any person acquires
25 stock in an S corporation by reason of the

1 death of a decedent or by bequest, devise, or in-
2 heritance, section 691 shall be applied with re-
3 spect to any item of income of the S corpora-
4 tion in the same manner as if the decedent had
5 held directly his pro rata share of such item.

6 “(B) ADJUSTMENTS TO BASIS.—The basis
7 determined under section 1014 of any stock in
8 an S corporation shall be reduced by the por-
9 tion of the value of the stock which is attrib-
10 utable to items constituting income in respect
11 of the decedent.”

12 (e) EFFECTIVE DATES.—

13 (1) SUBSECTIONS (a) AND (b).—The amend-
14 ments made by subsections (a) and (b) shall take ef-
15 fect on the date of the enactment of this Act.

16 (2) SUBSECTION (c).—The amendments made
17 by subsection (c) shall apply to taxable years begin-
18 ning after December 31, 1992.

19 (3) SUBSECTION (d).—The amendment made
20 by subsection (d) shall apply in the case of decedents
21 dying after the date of the enactment of this Act.

1 **Subtitle B—Accounting Provisions**

2 **SEC. 611. MODIFICATIONS TO LOOK-BACK METHOD FOR** 3 **LONG-TERM CONTRACTS.**

4 (a) LOOK-BACK METHOD NOT TO APPLY IN CER-
5 TAIN CASES.—Subsection (b) of section 460 (relating to
6 percentage of completion method) is amended by adding
7 at the end thereof the following new paragraph:

8 “(6) ELECTION TO HAVE LOOK-BACK METHOD
9 NOT APPLY IN DE MINIMIS CASES.—

10 “(A) AMOUNTS TAKEN INTO ACCOUNT
11 AFTER COMPLETION OF CONTRACT.—Para-
12 graph (1)(B) shall not apply with respect to
13 any taxable year (beginning after the taxable
14 year in which the contract is completed) if—

15 “(i) the cumulative taxable income (or
16 loss) under the contract as of the close of
17 such taxable year, is within

18 “(ii) 10 percent of the cumulative
19 look-back taxable income (or loss) under
20 the contract as of the close of the most re-
21 cent taxable year to which paragraph
22 (1)(B) applied (or would have applied but
23 for subparagraph (B)).

1 “(B) DE MINIMIS DISCREPANCIES.—Para-
2 graph (1)(B) shall not apply in any case to
3 which it would otherwise apply if—

4 “(i) the cumulative taxable income (or
5 loss) under the contract as of the close of
6 each prior contract year, is within

7 “(ii) 10 percent of the cumulative
8 look-back income (or loss) under the con-
9 tract as of the close of such prior contract
10 year.

11 “(C) DEFINITIONS.—For purposes of this
12 paragraph—

13 “(i) CONTRACT YEAR.—The term
14 ‘contract year’ means any taxable year for
15 which income is taken into account under
16 the contract.

17 “(ii) LOOK-BACK INCOME OR LOSS.—
18 The look-back income (or loss) is the
19 amount which would be the taxable income
20 (or loss) under the contract if the alloca-
21 tion method set forth in paragraph (2)(A)
22 were used in determining taxable income.

23 “(iii) DISCOUNTING NOT APPLICA-
24 BLE.—The amounts taken into account
25 after the completion of the contract shall

1 be determined without regard to any dis-
2 counting under the 2nd sentence of para-
3 graph (2).

4 “(D) CONTRACTS TO WHICH PARAGRAPH
5 APPLIES.—This paragraph shall only apply if
6 the taxpayer makes an election under this sub-
7 paragraph. Unless revoked with the consent of
8 the Secretary, such an election shall apply to all
9 long-term contracts completed during the tax-
10 able year for which election is made or during
11 any subsequent taxable year.”

12 (b) MODIFICATION OF INTEREST RATE.—

13 (1) IN GENERAL.—Subparagraph (C) of section
14 460(b)(2) is amended by striking “the overpayment
15 rate established by section 6621” and inserting “the
16 adjusted overpayment rate (as defined in paragraph
17 (7))”.

18 (2) ADJUSTED OVERPAYMENT RATE.—Sub-
19 section (b) of section 460 is amended by adding at
20 the end thereof the following new paragraph:

21 “(7) ADJUSTED OVERPAYMENT RATE.—

22 “(A) IN GENERAL.—The adjusted overpay-
23 ment rate for any interest accrual period is the
24 overpayment rate in effect under section 6621

1 for the calendar quarter in which such interest
2 accrual period begins.

3 “(B) INTEREST ACCRUAL PERIOD.—For
4 purposes of subparagraph (A), the term ‘inter-
5 est accrual period’ means the period—

6 “(i) beginning on the day after the re-
7 turn due date for any taxable year of the
8 taxpayer, and

9 “(ii) ending on the return due date
10 for the following taxable year.

11 For purposes of the preceding sentence, the
12 term ‘return due date’ means the date pre-
13 scribed for filing the return of the tax imposed
14 by this chapter (determined without regard to
15 extensions).”

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to contracts completed in taxable
18 years ending after the date of the enactment of this Act.

19 **SEC. 612. SIMPLIFIED METHOD FOR CAPITALIZING CER-**
20 **TAIN INDIRECT COSTS.**

21 (a) GENERAL RULE.—Subsection (i) of section 263A
22 (relating to regulations) is amended by striking “and” at
23 the end of paragraph (1), by striking the period at the
24 end of paragraph (2) and inserting “, and”, and by adding
25 at the end thereof the following:

1 “(3) regulations providing that allocations of
2 costs of any administrative, service, or support func-
3 tion or department may be made on the basis of the
4 base period percentage of the current costs of such
5 function or department.

6 For purposes of paragraph (3), the term ‘base period per-
7 centage’ means, with respect to any function or depart-
8 ment, the percentage of the costs of such function or de-
9 partment during a base period specified in regulations
10 which were allocable to property to which this section ap-
11 plies.”

12 (b) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall apply to taxable years beginning after
14 the date of the enactment of this Act.

15 **Subtitle C—Provisions Relating To**
16 **Regulated Investment Companies**

17 **SEC. 621. REPEAL OF 30-PERCENT GROSS INCOME LIMITA-**
18 **TION.**

19 (a) GENERAL RULE.—Subsection (b) of section 851
20 (relating to limitations) is amended by striking paragraph
21 (3), by adding “and” at the end of paragraph (2), and
22 by redesignating paragraph (4) as paragraph (3).

23 (b) TECHNICAL AMENDMENTS.—

1 (1) The material following paragraph (3) of sec-
2 tion 851 (as redesignated by subsection (a)) is
3 amended—

4 (A) by striking out “paragraphs (2) and
5 (3)” and inserting “paragraph (2)”, and

6 (B) by striking out the last sentence there-
7 of.

8 (2) Subsection (c) of section 851 is amended by
9 striking “subsection (b)(4)” each place it appears
10 (including the heading) and inserting “subsection
11 (b)(3)”.

12 (3) Subsection (d) of section 851 is amended by
13 striking “subsections (b)(4)” and inserting “sub-
14 sections (b)(3)”.

15 (4) Paragraph (1) of section 851(e) is amended
16 by striking “subsection (b)(4)” and inserting “sub-
17 section (b)(3)”.

18 (5) Paragraph (4) of section 851(e) is amended
19 by striking “subsections (b)(4)” and inserting “sub-
20 sections (b)(3)”.

21 (6) Section 851 is amended by striking sub-
22 section (g) and redesignating subsection (h) as sub-
23 section (g).

1 (7) Subsection (g) of section 851 (as redesign-
 2 nated by paragraph (6)) is amended by striking
 3 paragraph (3).

4 (8) Section 817(h)(2) is amended—

5 (A) by striking “851(b)(4)” in subpara-
 6 graph (A) and inserting “851(b)(3)”, and

7 (B) by striking “851(b)(4)(A)(i)” in sub-
 8 paragraph (B) and inserting “851(b)(3)(A)(i)”.

9 (9) Section 1092(f)(2) is amended by striking
 10 “Except for purposes of section 851(b)(3), the” and
 11 inserting “The”.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to taxable years ending after the
 14 date of the enactment of this Act.

15 **SEC. 622. BASIS RULES FOR SHARES IN OPEN-END REGU-**
 16 **LATED INVESTMENT COMPANIES.**

17 (a) ADDITIONAL REPORTING REQUIREMENT.—Sec-
 18 tion 6045 (relating to returns of brokers) is amended by
 19 adding at the end thereof the following new subsection:

20 “(f) ADDITIONAL INFORMATION REQUIRED WITH
 21 RESPECT TO OPEN-END REGULATED INVESTMENT COM-
 22 PANIES.—

23 “(1) IN GENERAL.—If any person is required
 24 under subsection (a) to make a return regarding the
 25 gross proceeds from any disposition of stock in an

1 open-end regulated investment company, such return
2 shall include for each such disposition—

3 “(A) the basis of the stock disposed of (de-
4 termined by reference to the average basis of all
5 of the stock in the account from which the dis-
6 position was made immediately before the dis-
7 position), and

8 “(B) the portion of such gross proceeds at-
9 tributable to stock held for more than 1 year
10 and the portion not so attributable.

11 Determinations under subparagraph (B) shall be
12 made on a first-in, first-out, basis and determina-
13 tions of basis and holding period shall be made in
14 such manner as the Secretary may prescribe.

15 “(2) OPEN-END REGULATED INVESTMENT COM-
16 PANY.—For purposes of this subsection, the term
17 ‘open-end regulated investment company’ means any
18 regulated investment company which is offering for
19 sale or has outstanding any redeemable security (as
20 defined in section 2(a)(32) of the Investment Com-
21 pany Act of 1940) of which it is the issuer.

22 “(3) INFORMATION TRANSFERS.—To the extent
23 provided in regulations, there shall be such ex-
24 changes of information between brokers as such reg-

1 ulations may require for purposes of enabling bro-
2 kers to meet the requirements of this subsection.

3 “(4) APPLICATION OF SUBSECTION.—This sub-
4 section shall not apply with respect to stock in any
5 account—

6 “(A) which was established before January
7 1, 1995, or

8 “(B) which includes any stock not acquired
9 by purchase.”

10 (b) BASIS FOR INCOME TAX PURPOSES.—Section
11 1012 of such Code is amended—

12 (1) by striking “The basis” and inserting “(a)
13 GENERAL RULE.—The basis”, and

14 (2) by adding at the end thereof the following
15 new subsection:

16 “(b) SPECIAL RULES FOR STOCK IN OPEN-END REG-
17 ULATED INVESTMENT COMPANIES.—

18 “(1) IN GENERAL.—In the case of any disposi-
19 tion of stock from a covered account—

20 “(A) the basis of such stock shall be deter-
21 mined by reference to the average basis of all
22 of the stock in such account immediately before
23 such disposition, and

1 “(B) the determination of which stock in
2 such account is so disposed of shall be made on
3 a first-in, first-out, basis.

4 “(2) COVERED ACCOUNT.—For purposes of this
5 subsection—

6 “(A) IN GENERAL.—The term ‘covered ac-
7 count’ means any account of stock in an open-
8 end regulated investment company if section
9 6045(f) applies to such account.

10 “(B) ELECTION OUT.—The term ‘covered
11 account’ shall not include any account if, on the
12 taxpayer’s return for his first taxable year in
13 which a disposition from such account occurs,
14 the taxpayer elects to have this subsection not
15 apply to such account.”

16 (c) COORDINATION WITH WASH SALE RULES.—Sec-
17 tion 1091 is amended by adding at the end thereof the
18 following new subsection:

19 “(f) SPECIAL RULES FOR CERTAIN ACCOUNTS IN
20 OPEN-END REGULATED INVESTMENT COMPANIES.—

21 “(1) IN GENERAL.—In applying this section to
22 a disposition during December of any calendar year
23 of stock from a covered account, any acquisition of
24 stock after January 15 of the following calendar
25 year shall be disregarded if such acquisition is a re-

1 sult of a dividend reinvestment pursuant to a divi-
2 dend reinvestment program established at the time
3 such account was opened or, if later, at least 6
4 months before the date of such disposition.

5 “(2) COVERED ACCOUNT.—For purposes of this
6 subsection, the term ‘covered account’ means any ac-
7 count of stock in an open-end regulated investment
8 company if section 6045(f) applies to such account.”

9 (d) MODIFICATION OF LOAD BASIS DEFERRAL RULE
10 FOR CERTAIN ACQUISITIONS OCCURRING AFTER JANU-
11 ARY 15.—

12 (1) Paragraph (1) of section 852(f) is amended
13 by striking “subparagraph (C)) shall not” and all
14 that follows and inserting “subparagraph (C)) shall
15 be recaptured as provided in paragraph (2). To the
16 extent such charge is recaptured under paragraph
17 (2), such charge shall be treated as incurred in con-
18 nection with the acquisition referred to in subpara-
19 graph (C) (including for purposes of reapplying this
20 paragraph).”

21 (2) Subsection (f) of section 852 is amended by
22 redesignating paragraph (2) as paragraph (3) and
23 by inserting after paragraph (1) the following new
24 paragraph:

25 “(2) RECAPTURE.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), any load charge required by
3 paragraph (1) to be recaptured shall not be
4 taken into account in determining the amount
5 of gain or loss on the disposition referred to in
6 paragraph (1)(B).

7 “(B) SUBSEQUENT ACQUISITIONS OCCUR-
8 RING AFTER JANUARY 15.—If—

9 “(i) the acquisition referred to in
10 paragraph (1)(A) occurs in a calendar
11 year, and

12 “(ii) the subsequent acquisition re-
13 ferred to in paragraph (1)(C) occurs after
14 January 15 of the following calendar year,
15 subparagraph (A) shall not apply and the
16 amount of the load charge required by para-
17 graph (1) to be recaptured shall be included in
18 gross income as short-term capital gain for the
19 taxable year in which the subsequent acqui-
20 sition referred to in paragraph (1)(C) occurs.”

21 (e) TECHNICAL AMENDMENT.—Section 6724 of such
22 Code is amended by adding at the end thereof the follow-
23 ing new subsection:

24 “(e) SPECIAL RULE FOR CERTAIN REPORTS WITH
25 RESPECT TO STOCK IN OPEN END REGULATED INVEST-

1 MENT COMPANIES.—For purposes of sections
 2 6721(e)(2)(B) and 6722(c)(1)(B), the amount required to
 3 be reported under section 6045 shall be determined with-
 4 out regard to subsection (f) thereof.”

5 (f) EFFECTIVE DATE.—

6 (1) IN GENERAL.—Except as provided in para-
 7 graph (2), the amendments made by this section
 8 shall apply to returns and statements required for
 9 calendar year 1995 and subsequent calendar years.

10 (2) SUBSECTION (b).—The amendments made
 11 by subsection (b) shall apply to dispositions after
 12 December 31, 1994.

13 **SEC. 623. NONRECOGNITION TREATMENT FOR CERTAIN**
 14 **TRANSFERS BY COMMON TRUST FUNDS TO**
 15 **REGULATED INVESTMENT COMPANIES.**

16 (a) GENERAL RULE.—Section 584 (relating to com-
 17 mon trust funds) is amended by redesignating subsection
 18 (h) as subsection (i) and by inserting after subsection (g)
 19 the following new subsection:

20 “(h) NONRECOGNITION TREATMENT FOR CERTAIN
 21 TRANSFERS TO REGULATED INVESTMENT COMPANIES.—

22 “(1) IN GENERAL.—If—

23 “(A) a common trust fund transfers sub-
 24 stantially all of its assets to a regulated invest-

1 ment company in exchange solely for stock in
2 such company, and

3 “(B) such stock is distributed by such
4 common trust fund to participants in such com-
5 mon trust fund in exchange solely for their in-
6 terests in such common trust fund,

7 no gain or loss shall be recognized by such common
8 trust fund by reason of such transfer or distribution,
9 and no gain or loss shall be recognized by any par-
10 ticipant in such common trust fund by reason of
11 such exchange.

12 “(2) BASIS RULES.—

13 “(A) REGULATED INVESTMENT COM-
14 PANY.—The basis of any asset received by a
15 regulated investment company in a transfer re-
16 ferred to in paragraph (1)(A) shall be the same
17 as it would be in the hands of the common
18 trust fund.

19 “(B) PARTICIPANTS.—The basis of any
20 stock in a regulated investment company which
21 is received in an exchange referred to in para-
22 graph (1)(B) shall be the same as that of the
23 property exchanged.

24 “(3) TREATMENT OF ASSUMPTIONS OF LIABIL-
25 ITY.—

1 “(A) IN GENERAL.—In determining wheth-
2 er the transfer referred to in paragraph (1)(A)
3 is in exchange solely for stock in the regulated
4 investment company, the assumption by such
5 company of a liability of the common trust
6 fund, and the fact that any property trans-
7 ferred by the common trust fund is subject to
8 a liability, shall be disregarded.

9 “(B) SPECIAL RULE WHERE ASSUMED LI-
10 ABILITIES EXCEED BASIS.—

11 “(i) IN GENERAL.—If in any transfer
12 referred to in paragraph (1)(A) the as-
13 sumed liabilities exceed the aggregate ad-
14 justed bases (in the hands of the common
15 trust fund) of the assets transferred to the
16 regulated investment company—

17 “(I) notwithstanding paragraph
18 (1), gain shall be recognized to the
19 common trust fund on such transfer
20 in an amount equal to such excess,

21 “(II) the basis of the assets re-
22 ceived by the regulated investment
23 company in such transfer shall be in-
24 creased by the amount so recognized,
25 and

1 “(III) any adjustment to the
2 basis of a participant’s interest in the
3 common trust fund as a result of the
4 gain so recognized shall be treated as
5 occurring immediately before the ex-
6 change referred to in paragraph
7 (1)(B).

8 “(ii) ASSUMED LIABILITIES.—For
9 purposes of clause (i), the term ‘assumed
10 liabilities’ means the aggregate of—

11 “(I) any liability of the common
12 trust fund assumed by the regulated
13 investment company in connection
14 with the transfer referred to in para-
15 graph (1)(A), and

16 “(II) any liability to which prop-
17 erty so transferred is subject.

18 “(4) COMMON TRUST FUND MUST MEET DIVER-
19 SIFICATION RULES.—This subsection shall not apply
20 to any common trust fund which would not meet the
21 requirements of section 368(a)(2)(F)(ii) if it were a
22 corporation. For purposes of the preceding sentence,
23 Government securities shall not be treated as securi-
24 ties of an issuer in applying the 25-percent and 50-
25 percent test and such securities shall not be excluded

1 for purposes of determining total assets under clause
 2 (iv) of section 368(a)(2)(F).”

3 (b) EFFECTIVE DATE.—The amendment made by
 4 subsection (a) shall apply to transfers after the date of
 5 the enactment of this Act.

6 **Subtitle D—Tax-Exempt Bond** 7 **Provisions**

8 **SEC. 631. REPEAL OF \$100,000 LIMITATION ON UNSPENT** 9 **PROCEEDS UNDER 1-YEAR EXCEPTION FROM** 10 **REBATE.**

11 Subclause (I) of section 148(f)(4)(B)(ii) (relating to
 12 additional period for certain bonds) is amended by striking
 13 “the lesser of 5 percent of the proceeds of the issue or
 14 \$100,000” and inserting “5 percent of the proceeds of the
 15 issue”.

16 **SEC. 632. EXCEPTION FROM REBATE FOR EARNINGS ON** 17 **BONA FIDE DEBT SERVICE FUND UNDER** 18 **CONSTRUCTION BOND RULES.**

19 Subparagraph (C) of section 148(f)(4) is amended by
 20 adding at the end thereof the following new clause:

21 “(xvii) TREATMENT OF BONA FIDE
 22 DEBT SERVICE FUNDS.—If the spending
 23 requirements of clause (ii) are met with re-
 24 spect to the available construction proceeds
 25 of a construction issue, then paragraph (2)

1 shall not apply to earnings on a bona fide
2 debt service fund for such issue.”

3 **SEC. 633. AGGREGATION OF ISSUES RULES NOT TO APPLY**
4 **TO TAX OR REVENUE ANTICIPATION BONDS.**

5 Section 150 (relating to definitions and special rules)
6 is amended by adding at the end thereof the following new
7 subsection:

8 “(f) TAX OR REVENUE ANTICIPATION BONDS
9 TREATED AS SEPARATE ISSUES.—For purposes of this
10 part, if—

11 “(1) all of the bonds which are part of an issue
12 are qualified 501(c)(3) bonds or bonds which are not
13 private activity bonds, and

14 “(2) any portion of such issue consists of tax or
15 revenue anticipation bonds which are reasonably ex-
16 pected to meet the requirements of section
17 148(f)(4)(B)(iii),

18 then such portion shall, subject to appropriate allocations
19 specified in regulations prescribed by the Secretary, be
20 treated as a separate issue.”

21 **SEC. 634. REPEAL OF DISPROPORTIONATE PRIVATE BUSI-**
22 **NESS USE TEST.**

23 (a) IN GENERAL.—Subsection (b) of section 141 (re-
24 lating to private business tests) is amended by striking

1 paragraph (3) and by redesignating paragraphs (4)
2 through (9) as paragraphs (3) through (8), respectively.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Paragraph (2) of section 141(d) is amended
5 by striking “subsection (b)(4)” and inserting “sub-
6 section (b)(3)”.

7 (2) Paragraph (2) of section 142(c) is amended
8 by striking “section 141(b)(6)” and inserting “sec-
9 tion 141(b)(5)”.

10 (3) Subsections (k)(3) and (m)(1) of section
11 146 and section 149(f)(4)(B)(i) are each amended
12 by striking “section 141(b)(5)” and inserting “sec-
13 tion 141(b)(4)”.

14 **SEC. 635. EXPANDED EXCEPTION FROM REBATE FOR ISSU-**
15 **ERS ISSUING \$10,000,000 OR LESS OF BONDS.**

16 Subparagraph (D) of section 148(f) (relating to ex-
17 ception for governmental units issuing \$5,000,000 or less
18 of bonds) is amended by striking “\$5,000,000” each place
19 it appears (including the heading) and inserting
20 “\$10,000,000”.

1 **SEC. 636. REPEAL OF DEBT SERVICE-BASED LIMITATION**
2 **ON INVESTMENT IN CERTAIN NONPURPOSE**
3 **INVESTMENTS.**

4 Subsection (d) of section 148 (relating to special
5 rules for reasonably required reserve or replacement fund)
6 is amended by striking paragraph (3).

7 **SEC. 637. REPEAL OF EXPIRED PROVISIONS.**

8 (a) Paragraph (2) of section 148(c) is amended by
9 striking subparagraph (B) and by redesignating subpara-
10 graphs (C), (D), and (E) as subparagraph (B), (C), and
11 (D), respectively.

12 (b) Paragraph (4) of section 148(f) is amended by
13 striking subparagraph (E).

14 **SEC. 638. CLARIFICATION OF INVESTMENT-TYPE PROP-**
15 **ERTY.**

16 Subparagraph (D) of section 148(b)(2) is amended
17 to read as follows:

18 “(D) any investment-type property, or”.

19 **SEC. 639. EFFECTIVE DATES.**

20 (a) **IN GENERAL.**—Except as otherwise provided in
21 this section, the amendments made by this subtitle shall
22 apply to bonds issued after the date of the enactment of
23 this Act.

24 (b) **SMALL ISSUER EXPANSION.**—The amendment
25 made by section 635 shall apply to bonds issued in cal-

1 endar years beginning after the date of the enactment of
2 this Act.

3 (c) INVESTMENT-TYPE PROPERTY.—The amendment
4 made by section 638 shall take effect as if included in the
5 amendments made by section 1301 of the Tax Reform Act
6 of 1986.

7 **Subtitle E—Insurance Provisions**

8 **SEC. 641. TREATMENT OF CERTAIN INSURANCE CON-** 9 **TRACTS ON RETIRED LIVES.**

10 (a) GENERAL RULE.—

11 (1) Paragraph (2) of section 817(d) (defining
12 variable contract) is amended by striking “or” at the
13 end of subparagraph (A), by striking “and” at the
14 end of subparagraph (B) and inserting “or”, and by
15 inserting after subparagraph (B) the following new
16 subparagraph:

17 “(C) provides for funding of insurance on
18 retired lives as described in section 807(c)(6),
19 and”.

20 (2) Paragraph (3) of section 817(d) is amended
21 by striking “or” at the end of subparagraph (A), by
22 striking the period at the end of subparagraph (B)
23 and inserting “, or”, and by inserting after subpara-
24 graph (B) the following new subparagraph:

1 “(C) in the case of funds held under a con-
2 tract described in paragraph (2)(C), the
3 amounts paid in, or the amounts paid out, re-
4 flect the investment return and the market
5 value of the segregated asset account.”

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years beginning after
8 December 31, 1992.

9 **SEC. 642. TREATMENT OF MODIFIED GUARANTEED CON-**
10 **TRACTS.**

11 (a) GENERAL RULE.—Subpart E of part I of sub-
12 chapter L of chapter 1 (relating to definitions and special
13 rules) is amended by inserting after section 817 the follow-
14 ing new section:

15 **“SEC. 817A. SPECIAL RULES FOR MODIFIED GUARANTEED**
16 **CONTRACTS.**

17 “(a) COMPUTATION OF RESERVES.—In the case of
18 a modified guaranteed contract, clause (ii) of section
19 807(e)(1)(A) shall not apply.

20 “(b) SEGREGATED ASSETS UNDER MODIFIED GUAR-
21 ANTEED CONTRACTS MARKED TO MARKET.—

22 “(1) IN GENERAL.—In the case of any life in-
23 surance company, for purposes of this subtitle—

1 “(A) Any gain or loss with respect to a
2 segregated asset shall be treated as ordinary in-
3 come or loss, as the case may be.

4 “(B) If any segregated asset is held by
5 such company as of the close of any taxable
6 year—

7 “(i) such company shall recognize
8 gain or loss as if such asset were sold for
9 its fair market value on the last business
10 day of such taxable year, and

11 “(ii) any such gain or loss shall be
12 taken into account for such taxable year.

13 Proper adjustment shall be made in the amount
14 of any gain or loss subsequently realized for
15 gain or loss taken into account under the pre-
16 ceding sentence. The Secretary may provide by
17 regulations for the application of this subpara-
18 graph at times other than the times provided in
19 this subparagraph.

20 “(2) SEGREGATED ASSET.—For purposes of
21 paragraph (1), the term ‘segregated asset’ means
22 any asset held as part of a segregated account re-
23 ferred to in subsection (d)(1) under a modified guar-
24 anteed contract.

1 “(c) SPECIAL RULE IN COMPUTING LIFE INSURANCE
2 RESERVES.—For purposes of applying section
3 816(b)(1)(A) to any modified guaranteed contract, an as-
4 sumed rate of interest shall include a rate of interest de-
5 termined, from time to time, with reference to a market
6 rate of interest.

7 “(d) MODIFIED GUARANTEED CONTRACT DE-
8 FINED.—For purposes of this section, the term ‘modified
9 guaranteed contract’ means a contract not described in
10 section 817—

11 “(1) all or part of the amounts received under
12 which are allocated to an account which, pursuant to
13 State law or regulation, is segregated from the gen-
14 eral asset accounts of the company and is valued
15 from time to time with reference to market values,

16 “(2) which—

17 “(A) provides for the payment of annuities,

18 “(B) is a life insurance contract, or

19 “(C) is a pension plan contract which is
20 not a life, accident, or health, property, cas-
21 ualty, or liability contract,

22 “(3) for which reserves are valued at market for
23 annual statement purposes, and

1 “(4) which provides for a net surrender value or
2 a policyholder’s fund (as defined in section
3 807(e)(1)).

4 “(e) REGULATIONS.—The Secretary may prescribe
5 regulations—

6 “(1) to provide for the treatment of market
7 value adjustments under sections 72, 7702, 7702A,
8 and 807(e)(1)(B),

9 “(2) to determine the interest rates applicable
10 under sections 807(c)(3), 807(d)(2)(B), and 812
11 with respect to a modified guaranteed contract an-
12 nually, in a manner appropriate for modified guar-
13 anteed contracts and, to the extent appropriate for
14 such a contract, to modify or waive the applicability
15 of section 811(d),

16 “(3) to provide rules to limit ordinary gain or
17 loss treatment to assets constituting reserves for
18 modified guaranteed contracts (and not other assets)
19 of the company,

20 “(4) to provide appropriate treatment of trans-
21 fers of assets to and from the segregated account,
22 and

23 “(5) as may be necessary or appropriate to
24 carry out the purposes of this section.”

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for subpart E of part I of subchapter L of chapter 1 is
3 amended by inserting after the item relating to section
4 817 the following new item:

“Sec. 817A. Special rules for modified guaranteed contracts.”

5 (c) EFFECTIVE DATE.—

6 (1) IN GENERAL.—The amendments made by
7 this section shall apply to taxable years beginning
8 after December 31, 1992.

9 (2) TREATMENT OF NET ADJUSTMENTS.—In
10 the case of any taxpayer required by the amend-
11 ments made by this section to change its calculation
12 of reserves to take into account market value adjust-
13 ments and to mark segregated assets to market for
14 any taxable year—

15 (A) such changes shall be treated as a
16 change in method of accounting initiated by the
17 taxpayer,

18 (B) such changes shall be treated as made
19 with the consent of the Secretary, and

20 (C) the adjustments required by reason of
21 section 481 of the Internal Revenue Code of
22 1986 shall be taken into account as ordinary in-
23 come or loss by the taxpayer for the taxpayer’s
24 first taxable year beginning after December 31,
25 1992.

1 **Subtitle F—Other Provisions**

2 **SEC. 651. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH**
3 **RESPECT TO DECEASED PARTNER, ETC.**

4 (a) GENERAL RULE.—Subparagraph (A) of section
5 706(c)(2) (relating to disposition of entire interest) is
6 amended to read as follows:

7 “(A) DISPOSITION OF ENTIRE INTER-
8 EST.—The taxable year of a partnership shall
9 close with respect to a partner whose entire in-
10 terest in the partnership terminates (whether
11 by reason of death, liquidation, or otherwise).”

12 (b) CLERICAL AMENDMENT.—The paragraph head-
13 ing for paragraph (2) of section 706(c) is amended to read
14 as follows:

15 “(2) TREATMENT OF DISPOSITIONS.—”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to partnership taxable years begin-
18 ning after December 31, 1993.

19 **SEC. 652. REPEAL OF SPECIAL TREATMENT OF OWNER-**
20 **SHIP CHANGES IN DETERMINING ADJUSTED**
21 **CURRENT EARNINGS.**

22 (a) GENERAL RULE.—Paragraph (4) of section 56(g)
23 (relating to adjustments) is amended by striking subpara-
24 graph (G) and by redesignating the following subpara-
25 graph as paragraph (G).

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to ownership changes after the
3 date of the enactment of this Act.

4 **SEC. 653. SIMPLIFICATION OF CORPORATE MINIMUM TAX**
5 **DEPRECIATION PREFERENCE.**

6 (a) IN GENERAL.—

7 (1) Clause (ii) of section 56(a)(1)(A) is amend-
8 ed—

9 (A) by striking “150 percent” in subclause
10 (I) and inserting “150 percent (120 percent in
11 the case of a corporation to which subsection
12 (g) applies)”, and

13 (B) by striking “150-PERCENT DECLIN-
14 ING” in the clause heading and inserting “DE-
15 CLINING”.

16 (2) Clause (i) of section 56(g)(4)(A) is amended
17 to read as follows:

18 “(i) PROPERTY PLACED IN SERVICE
19 AFTER 1989.—The depreciation deduction
20 with respect to any property placed in
21 service in a taxable year beginning—

22 “(I) during 1990, 1991, or 1992
23 shall be determined under the alter-
24 native system of section 168(g), or

1 “(II) after 1992 shall be deter-
2 mined under the rules of subpara-
3 graph (A) of subsection (a)(1).”

4 (b) CONFORMING AMENDMENTS.—

5 (1) Paragraph (2) of section 168(b) is amended
6 to read as follows:

7 “(2) SPECIAL RULE FOR DECLINING BALANCE
8 METHOD IN CERTAIN CASES.—

9 “(A) 150 PERCENT METHOD FOR CERTAIN
10 PROPERTY.—Paragraph (1) shall be applied by
11 substituting ‘150 percent’ for ‘200 percent’ in
12 the case of—

13 “(i) any 15-year or 20-year property,
14 or

15 “(ii) any property used in a farming
16 business (within the meaning of section
17 263A(e)(4)).

18 “(B) ELECTION TO USE MINIMUM TAX
19 METHOD.—In the case of any property (other
20 than property described in paragraph (3)) with
21 respect to which the taxpayer elects under para-
22 graph (5) to have the provisions of this sub-
23 paragraph apply, paragraph (1) shall be applied
24 by substituting ‘150 percent (120 percent in the
25 case of a corporation to which section 56(g) ap-

1 plies)’ for ‘200 percent’ (and subparagraph (A)
2 of this paragraph shall not apply).”

3 (2) Paragraph (5) of section 168(b) is amended
4 by striking “paragraph (2)(C)” and inserting “para-
5 graph (2)(B)”.

6 (3) Paragraph (2) of section 168(c) is amend-
7 ed—

8 (A) by striking “subsection (b)(2)(C)” and
9 inserting “subsection (b)(2)(B)”, and

10 (B) by striking “150 PERCENT METHOD”
11 in the paragraph heading and inserting “MINI-
12 MUM TAX METHOD”.

13 (c) EFFECTIVE DATES.—

14 (1) IN GENERAL.—Except as provided in para-
15 graph (2), the amendments made by this section
16 shall apply to property placed in service in taxable
17 years beginning after December 31, 1992.

18 (2) COORDINATION WITH TRANSITIONAL
19 RULES.—The amendments made by this section
20 shall not apply to any property to which paragraph
21 (1) of section 56(a) of the Internal Revenue Code of
22 1986 does not apply by reason of subparagraph
23 (C)(i) of such paragraph (1).

1 **SEC. 654. MODIFICATION OF CREDIT FOR PRODUCING**
 2 **FUEL FROM A NONCONVENTIONAL SOURCE.**

3 (a) IN GENERAL.—Subparagraph (A) of section
 4 29(c)(2) (relating to gas from geopressured brine, etc.) is
 5 amended by adding at the end the following new sentence:
 6 “If the Federal Energy Regulatory Commission ceases to
 7 make the determinations described in the preceding sen-
 8 tence, the Secretary shall make such determinations in ac-
 9 cordance with section 503 of such Act.”

10 (b) CONFORMING AMENDMENT.—Section
 11 29(c)(2)(A) is amended by inserting “(as in effect before
 12 its repeal by the Natural Gas Wellhead Decontrol Act of
 13 1989)”± after “Natural Gas Policy Act of 1978”.

14 (c) EFFECTIVE DATE.—The amendments made by
 15 this section shall take effect on January 1, 1993.

16 **TITLE VII—ESTATE AND GIFT**
 17 **TAX PROVISIONS**

18 **SEC. 701. CLARIFICATION OF WAIVER OF CERTAIN RIGHTS**
 19 **OF RECOVERY.**

20 (a) AMENDMENT TO SECTION 2207A.—Paragraph
 21 (2) of section 2207A(a) (relating to right of recovery in
 22 the case of certain marital deduction property) is amended
 23 to read as follows:

24 “(2) DECEDENT MAY OTHERWISE DIRECT.—
 25 Paragraph (1) shall not apply with respect to any
 26 property to the extent that the decedent in his will

1 (or a revocable trust) specifically indicates an intent
 2 to waive any right of recovery under this subchapter
 3 with respect to such property.”

4 (b) AMENDMENT TO SECTION 2207B.—Paragraph
 5 (2) of section 2207B(a) (relating to right of recovery
 6 where decedent retained interest) is amended to read as
 7 follows:

8 “(2) DECEDENT MAY OTHERWISE DIRECT.—
 9 Paragraph (1) shall not apply with respect to any
 10 property to the extent that the decedent in his will
 11 (or a revocable trust) specifically indicates an intent
 12 to waive any right of recovery under this subchapter
 13 with respect to such property.”

14 (c) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply with respect to the estates of dece-
 16 dents dying after the date of the enactment of this Act.

17 **SEC. 702. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF**
 18 **DECEDENT’S DEATH.**

19 (a) GENERAL RULE.—Section 2035 is amended to
 20 read as follows:

21 **“SEC. 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE**
 22 **WITHIN 3 YEARS OF DECEDENT’S DEATH.**

23 “(a) INCLUSION OF CERTAIN PROPERTY IN GROSS
 24 ESTATE.—If—

1 “(1) the decedent made a transfer (by trust or
2 otherwise) of an interest in any property, or relin-
3 quished a power with respect to any property, during
4 the 3-year period ending on the date of the dece-
5 dent’s death, and

6 “(2) the value of such property (or an interest
7 therein) would have been included in the decedent’s
8 gross estate under section 2036, 2037, 2038, or
9 2042 if such transferred interest or relinquished
10 power had been retained by the decedent on the date
11 of his death,

12 the value of the gross estate shall include the value of any
13 property (or interest therein) which would have been so
14 included.

15 “(b) INCLUSION OF GIFT TAX ON GIFTS MADE DUR-
16 ING 3 YEARS BEFORE DECEDENT’S DEATH.—The
17 amount of the gross estate (determined without regard to
18 this subsection) shall be increased by the amount of any
19 tax paid under chapter 12 by the decedent or his estate
20 on any gift made by the decedent or his spouse during
21 the 3-year period ending on the date of the decedent’s
22 death.

23 “(c) OTHER RULES RELATING TO TRANSFERS
24 WITHIN 3 YEARS OF DEATH.—

25 “(1) IN GENERAL.—For purposes of—

1 “(A) section 303(b) (relating to distribu-
2 tions in redemption of stock to pay death
3 taxes),

4 “(B) section 2032A (relating to special
5 valuation of certain farms, etc., real property),
6 and

7 “(C) subchapter C of chapter 64 (relating
8 to lien for taxes),

9 the value of the gross estate shall include the value
10 of all property to the extent of any interest therein
11 of which the decedent has at any time made a trans-
12 fer, by trust or otherwise, during the 3-year period
13 ending on the date of the decedent’s death.

14 “(2) COORDINATION WITH SECTION 6166.—An
15 estate shall be treated as meeting the 35 percent of
16 adjusted gross estate requirement of section
17 6166(a)(1) only if the estate meets such requirement
18 both with and without the application of paragraph
19 (1).

20 “(3) SMALL TRANSFERS.—Paragraph (1) shall
21 not apply to any transfer (other than a transfer with
22 respect to a life insurance policy) made during a cal-
23 endar year to any donee if the decedent was not re-
24 quired by section 6019 (other than by reason of sec-

3 “(d) EXCEPTION.—Subsection (a) shall not apply to
4 any bona fide sale for an adequate and full consideration
5 in money or money’s worth.

6 “(e) TREATMENT OF CERTAIN TRANSFERS FROM
7 REVOCABLE TRUSTS.—For purposes of this section and
8 section 2038, any transfer from any portion of a trust with
9 respect to which the decedent was the grantor during any
10 period when the decedent held the power to revest in the
11 decedent title to such portion shall be treated as a transfer
12 made directly by the decedent.”

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by striking “gifts” in the item relating to section 2035 and inserting “certain gifts”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

20 **SEC. 703. CLARIFICATION OF QUALIFIED TERMINABLE IN-**
21 **TEREST RULES.**

22 (a) GENERAL RULE.—

(1) ESTATE TAX.—Subparagraph (B) of section 2056(b)(7) (defining qualified terminable interest

1 property) is amended by adding at the end thereof
2 the following new clause:

3 “(v)(i) TREATMENT OF CERTAIN IN-
4 COME DISTRIBUTIONS.—An income inter-
5 est shall not fail to qualify as a qualified
6 income interest for life solely because in-
7 come for the period after the last distribu-
8 tion date and on or before the date of the
9 surviving spouse’s death is not required to
10 be distributed to the surviving spouse or to
11 the estate of the surviving spouse.”

12 (2) GIFT TAX.—Paragraph (3) of section
13 2523(f) is amended by striking “and (iv)” and in-
14 serting “, (iv), and (vi)”.

15 (b) CLARIFICATION OF SUBSEQUENT INCLUSIONS.—
16 Section 2044 is amended by adding at the end thereof the
17 following new subsection:

18 “(d) CLARIFICATION OF INCLUSION OF CERTAIN IN-
19 COME.—The amount included in the gross estate under
20 subsection (a) shall include the amount of any income
21 from the property to which this section applies for the pe-
22 riod after the last distribution date and on or before the
23 date of the decedent’s death if such income is not other-
24 wise included in the decedent’s gross estate.”

25 (c) EFFECTIVE DATE.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply with respect to the estates of
3 decedents dying, and gifts made, after the date of
4 the enactment of this Act.

5 (2) APPLICATION OF SECTION 2044 TO TRANS-
6 FERS BEFORE DATE OF ENACTMENT.—In the case
7 of the estate of any decedent dying after the date of
8 the enactment of this Act, if there was a transfer of
9 property on or before such date—

10 (A) such property shall not be included in
11 the gross estate of the decedent under section
12 2044 of the Internal Revenue Code of 1986 if
13 no prior marital deduction was allowed with re-
14 spect to such a transfer of such property to the
15 decedent, but

16 (B) such property shall be so included if
17 such a deduction was allowed.

18 **SEC. 704. TRANSITIONAL RULE UNDER SECTION 2056A.**

19 (a) GENERAL RULE.—In the case of any trust cre-
20 ated under an instrument executed before the date of the
21 enactment of the Revenue Reconciliation Act of 1990,
22 such trust shall be treated as meeting the requirements
23 of paragraph (1) of section 2056A(a) of the Internal Reve-
24 nue Code of 1986 if the trust instrument requires that

1 all trustees of the trust be individual citizens of the United
2 States or domestic corporations.

3 (b) EFFECTIVE DATE.—The provisions of subsection
4 (a) shall take effect as if included in the provisions of sec-
5 tion 11702(g) of the Revenue Reconciliation Act of 1990.

6 **SEC. 705. OPPORTUNITY TO CORRECT CERTAIN FAILURES**
7 **UNDER SECTION 2032A.**

8 (a) GENERAL RULE.—Paragraph (3) of section
9 2032A(d) (relating to modification of election and agree-
10 ment to be permitted) is amended to read as follows:

11 “(3) MODIFICATION OF ELECTION AND AGREE-
12 MENT TO BE PERMITTED.—The Secretary shall pre-
13 scribe procedures which provide that in any case in
14 which the executor makes an election under para-
15 graph (1) (and submits the agreement referred to in
16 paragraph (2)) within the time prescribed therefor,
17 but—

18 “(A) the notice of election, as filed, does
19 not contain all required information, or

20 “(B) signatures of 1 or more persons re-
21 quired to enter into the agreement described in
22 paragraph (2) are not included on the agree-
23 ment as filed, or the agreement does not con-
24 tain all required information,

1 the executor will have a reasonable period of time
 2 (not exceeding 90 days) after notification of such
 3 failures to provide such information or signatures.”

4 (b) EFFECTIVE DATE.—The amendment made by
 5 subsection (a) shall apply to the estates of decedents dying
 6 after the date of the enactment of this Act.

7 **TITLE VIII—EXCISE TAX**
 8 **SIMPLIFICATION**
 9 **Subtitle A—Fuel Tax Provisions**

10 **SEC. 801. REPEAL OF CERTAIN RETAIL AND USE TAXES.**

11 (a) IN GENERAL.—Section 4041 is amended to read
 12 as follows:

13 **“SEC. 4041. SPECIAL MOTOR FUELS AND NONCOMMERCIAL**
 14 **AVIATION GASOLINE.**

15 “(a) SPECIAL MOTOR FUELS.—

16 “(1) IN GENERAL.—There is hereby imposed a
 17 tax on benzol, benzene, naphtha, liquefied petroleum
 18 gas, casing head and natural gasoline, or any other
 19 liquid—

20 “(A) sold by any person to an owner, les-
 21 see, or other operator of a motor vehicle or a
 22 motorboat for use as a fuel in such motor vehi-
 23 cle or motorboat, or

24 “(B) used by any person as a fuel in a
 25 motor vehicle or motorboat unless there was a

1 taxable sale of such liquid under subparagraph
2 (A).

3 “(2) RATE OF TAX.—The rate of the tax im-
4 posed by this subsection shall be the aggregate rate
5 of tax in effect under section 4081 at the time of
6 such sale or use.

7 “(3) CERTAIN FUELS EXEMPT FROM TAX.—The
8 tax imposed by this subsection shall not apply to
9 gasoline (as defined in section 4082), diesel fuel (as
10 defined in section 4092), kerosene, gas oil, or fuel
11 oil.

12 “(4) REDUCED RATES OF TAX ON CERTAIN
13 FUELS.—

14 “(A) QUALIFIED METHANOL AND ETHA-
15 NOL FUEL.—

16 “(i) IN GENERAL.—In the case of any
17 qualified methanol or ethanol fuel—

18 “(I) the Highway Trust Fund fi-
19 nancing rate applicable under para-
20 graph (2) shall be 5.4 cents per gallon
21 less than the otherwise applicable rate
22 (6 cents per gallon less in the case of
23 a mixture none of the alcohol in which
24 consists of ethanol), and

1 “(II) the Leaking Underground
2 Storage Tank Trust Fund financing
3 rate applicable under paragraph (2)
4 shall be 0.05 cent per gallon.

5 “(ii) QUALIFIED METHANOL OR ETHA-
6 NOL FUEL.—The term ‘qualified methanol
7 or ethanol fuel’ means any liquid at least
8 85 percent of which consists of methanol,
9 ethanol, or other alcohol produced from a
10 substance other than petroleum or natural
11 gas.

12 “(iii) TERMINATION.—Clause (i) shall
13 not apply to any sale or use after Septem-
14 ber 30, 2000.

15 “(B) NATURAL GAS-DERIVED METHANOL
16 OR ETHANOL FUEL.—

17 “(i) IN GENERAL.—In the case of nat-
18 ural gas-derived methanol or ethanol
19 fuel—

20 “(I) the Highway Trust Fund fi-
21 nancing rate applicable under para-
22 graph (2) shall be 5.75 cents per gal-
23 lon, and

1 “(II) the deficit reduction rate
2 applicable under paragraph (2) shall
3 be 1.25 cents per gallon.

4 “(ii) NATURAL GAS-DERIVED METH-
5 ANOL OR ETHANOL FUEL.—The term ‘nat-
6 ural-gas derived methanol or ethanol fuel’
7 means any liquid at least 85 percent of
8 which consists of methanol, ethanol, or
9 other alcohol produced from natural gas.

10 “(C) OTHER FUELS CONTAINING ALCO-
11 HOL.—

12 “(i) IN GENERAL.—Under regulations
13 prescribed by the Secretary, in the case of
14 any liquid at least 10 percent of which con-
15 sists of alcohol (as defined in section
16 4081(c)(3)), the Highway Trust Fund fi-
17 nancing rate applicable under paragraph
18 (2) shall be the comparable rate under sec-
19 tion 4081.

20 “(ii) LATER SEPARATION.—If any
21 person separates the liquid fuel from a
22 mixture of the liquid fuel and alcohol to
23 which clause (i) applies, such separation
24 shall be treated as a sale of the liquid fuel.
25 Any tax imposed on such sale shall be re-

1 duced by the amount (if any) of the tax
2 imposed on the sale of such mixture.

3 “(iii) TERMINATION.—Clause (i) shall
4 not apply to any sale or use after Septem-
5 ber 30, 2000.

6 “(D) LIQUEFIED PETROLEUM GAS.—The
7 rate of tax applicable under paragraph (2) to
8 liquefied petroleum gas shall be determined
9 without regard to the Leaking Underground
10 Storage Tank Trust Fund financing rate under
11 section 4081.

12 “(5) EXEMPTION FOR OFF-HIGHWAY BUSINESS
13 USE.—No tax shall be imposed by paragraph (1) on
14 liquids sold for use or used in an off-highway busi-
15 ness use (within the meaning of section 6420(f)).

16 “(b) NONCOMMERCIAL AVIATION GASOLINE.—

17 “(1) IN GENERAL.—There is hereby imposed a
18 tax on gasoline—

19 “(A) sold by any person to an owner, les-
20 see, or other operator of an aircraft for use as
21 a fuel in such aircraft in noncommercial avia-
22 tion, or

23 “(B) used by any person as a fuel in an
24 aircraft in noncommercial aviation unless there

1 was a taxable sale of such gasoline under sub-
2 paragraph (A).

3 The tax imposed by this paragraph shall be in addi-
4 tion to any tax imposed by section 4081.

5 “(2) RATE OF TAX.—The rate of the tax im-
6 posed by paragraph (1) on any gasoline is the excess
7 of 15 cents a gallon over the sum of the Highway
8 Trust Fund financing rate plus the deficit reduction
9 rate at which tax was imposed on such gasoline
10 under section 4081.

11 “(3) NONCOMMERCIAL AVIATION.—For pur-
12 poses of this subsection, the term ‘noncommercial
13 aviation’ means any use of an aircraft other than
14 use in a business of transporting persons or property
15 for compensation or hire by air. Such term includes
16 any use of an aircraft, in a business described in the
17 preceding sentence, which is properly allocable to
18 any transportation exempt from the taxes imposed
19 by sections 4261 and 4271 by reason of section
20 4281 or 4282.

21 “(4) EXEMPTION FOR FUELS CONTAINING AL-
22 COHOL.—No tax shall be imposed by this subsection
23 on any liquid at least 10 percent of which consists
24 of alcohol (as defined in section 4081(c)(3)).

1 “(5) EXEMPTION FOR CERTAIN HELICOPTER
2 USES.—No tax shall be imposed by this subsection
3 on gasoline sold for use or used in a helicopter for
4 purposes of providing transportation with respect to
5 which the requirements of subsection (e) or (f) of
6 section 4261 are met.

7 “(6) REGISTRATION.—Except as provided in
8 regulations prescribed by the Secretary, if any gaso-
9 line is sold by any person for use as a fuel in an air-
10 craft, it shall be presumed for purposes of this sub-
11 section that a tax imposed by this subsection applies
12 to the sale of such gasoline unless the purchaser is
13 registered in such manner (and furnished such infor-
14 mation in respect of the use of the gasoline) as the
15 Secretary shall by regulations provide.

16 “(7) GASOLINE.—For purposes of this sub-
17 section, the term ‘gasoline’ has the meaning given
18 such term by section 4082.

19 “(8) TERMINATION.—Paragraph (1) shall not
20 apply to any sale or use after December 31, 1995.

21 “(c) EXEMPTION FOR FARM USE.—

22 “(1) IN GENERAL.—Under regulations pre-
23 scribed by the Secretary, no tax shall be imposed
24 under this section on any liquid sold for use or used
25 on a farm for farming purposes (determined in ac-

1 cordance with paragraphs (1), (2), and (3) of section
2 6420(e)).

3 “(2) TERMINATION.—Except with respect to so
4 much of the tax imposed by subsection (a) as is de-
5 termined by reference to the Leaking Underground
6 Storage Tank Trust Fund financing rate under sec-
7 tion 4081, paragraph (1) shall not apply after Sep-
8 tember 30, 1999.

9 “(d) EXEMPTIONS FOR STATE AND LOCAL GOVERN-
10 MENTS, SCHOOLS, EXPORTATION, AND SUPPLIES FOR
11 VESSELS AND AIRCRAFT.—

12 “(1) IN GENERAL.—Under regulations pre-
13 scribed by the Secretary, no tax shall be imposed
14 under this section on any liquid sold for use, or
15 used, in an exempt use described in paragraph (4),
16 (5), (6), or (7) of section 6420(b).

17 “(2) TERMINATION.—Except with respect to so
18 much of the tax imposed by subsection (a) as is de-
19 termined by reference to the Leaking Underground
20 Storage Tank Trust Fund financing rate under sec-
21 tion 4081, after September 30, 1999, paragraph (1)
22 shall not apply to exempt uses described in para-
23 graph (4) and (5) of section 6420(b).

24 “(e) EXEMPTION FOR USE BY CERTAIN AIRCRAFT
25 MUSEUMS.—Under regulations prescribed by the Sec-

1 retary, no tax shall be imposed under this section on any
2 liquid sold for use or used in an exempt use described in
3 section 6420(b)(11).”

4 (b) CERTAIN ADDITIONAL PURCHASERS OF FUEL
5 TREATED AS PRODUCERS.—

6 (1) IN GENERAL.—Subparagraph (C) of section
7 4092(b)(1) is amended to read as follows:

8 “(C) REDUCED-TAX PURCHASERS TREAT-
9 ED AS PRODUCERS.—Any person to whom any
10 fuel is sold in a sale on which the amount of
11 tax otherwise required to be paid under section
12 4091 is reduced under section 4093 shall be
13 treated as the producer of such fuel. The
14 amount of tax imposed by section 4091 on any
15 sale of such fuel by such person shall be re-
16 duced by the amount of tax imposed under sec-
17 tion 4091 (and not credited or refunded) on
18 any prior sale of such fuel.”

19 (2) CONFORMING AMENDMENT.—Subsection (b)
20 of section 4093 is amended by inserting “(as defined
21 in section 4092(b) without regard to paragraph
22 (1)(C) thereof)” after “producer”.

1 **SEC. 802. REVISION OF FUEL TAX CREDIT AND REFUND**
2 **PROCEDURES.**

3 (a) REFUNDS TO CERTAIN SELLERS OF DIESEL
4 FUEL AND AVIATION FUEL.—

5 (1) IN GENERAL.—Paragraph (2) of section
6 6416(b) is amended by striking “4091 or 4121” and
7 inserting “4121 or 4091; except that this paragraph
8 shall apply to a person selling diesel fuel or aviation
9 fuel for a use described in the first sentence if such
10 person meets such requirements as the Secretary
11 may by regulations prescribe”.

12 (2) LIMITATIONS ON AMOUNT OF TAX; ONLY
13 HIGHWAY TRUST FUND FINANCING RATE TO BE
14 REFUNDABLE.—Paragraph (2) of section 6416(b) is
15 amended by adding at the end thereof the following
16 new sentence: “This paragraph shall not apply to
17 the taxes imposed by sections 4081 and 4091 with
18 respect to any use to the same extent that section
19 6420(a) does not apply to such use by reason of
20 paragraph (1) or (2) of section 6420(c).”

21 (b) CONSOLIDATION OF REFUND PROVISIONS; RE-
22 PEAL OF CONSENT REQUIREMENT FOR REFUND OF FUEL
23 TAXES TO CROPDUSTERS, ETC.—Section 6420 (relating
24 to gasoline used on farms) is amended to read as follows:

1 **“SEC. 6420. CERTAIN TAXES ON FUELS USED FOR EXEMPT**
2 **PURPOSES.**

3 “(a) IN GENERAL.—Except as otherwise provided in
4 this section, if any fuel on which tax was imposed under
5 section 4041, 4081, or 4091 is used in an exempt use,
6 the Secretary shall pay (without interest) to the ultimate
7 purchaser of such fuel the amount equal to the aggregate
8 tax imposed on such fuel under such sections.

9 “(b) EXEMPT USES.—For purposes of this section,
10 the term ‘exempt use’ means—

11 “(1) in the case of diesel fuel, use other than
12 as a fuel in a diesel-powered highway vehicle,

13 “(2) in the case of aviation fuel, use other than
14 as a fuel in an aircraft,

15 “(3) in the case of gasoline or aviation fuel,
16 used in an aircraft other than in noncommercial
17 aviation (as defined in section 4041(b)),

18 “(4) use by any State, any political subdivision
19 of a State, or the District of Columbia,

20 “(5) use by a nonprofit educational organiza-
21 tion (as defined in section 4221(d)(5)),

22 “(6) export,

23 “(7) use as supplies for vessels or aircraft
24 (within the meaning of section 4221(d)(3)),

25 “(8) use on a farm for farming purposes (with-
26 in the meaning of subsection (e)),

1 “(9) use in an off-highway business use (within
2 the meaning of subsection (f)),

3 “(10) use in qualified bus transportation (with-
4 in the meaning of subsection (g)),

5 “(11) use by an aircraft museum (within the
6 meaning of subsection (h)),

7 “(12) use in a nonpurpose use (within the
8 meaning of subsection (i)),

9 “(13) use in a helicopter for purposes of provid-
10 ing transportation with respect to which the require-
11 ments of subsection (e) or (f) of section 4261 are
12 met, and

13 “(14) use in producing a mixture of a fuel if at
14 least 10 percent of such mixture consists of alcohol
15 (as defined in section 4081(c)(3)) and if such mix-
16 ture is sold or used in the trade or business of the
17 person producing such mixture.

18 Paragraph (14) shall not apply with respect to any mix-
19 ture sold or used after September 30, 2000.

20 “(c) LIMITATIONS ON AMOUNT OF PAYMENT.—

21 “(1) NO REFUND OF LEAKING UNDERGROUND
22 STORAGE TANK TRUST FUND TAXES IN CERTAIN
23 CASES.—Subsection (a) shall not apply to so much
24 of the taxes imposed by sections 4081 and 4091 as

1 are attributable to a Leaking Underground Storage
2 Tank Trust Fund financing rate in the case of—

3 “(A) fuel used in a train, and

4 “(B) fuel used in any aircraft (except as
5 supplies for vessels or aircraft within the mean-
6 ing of section 4221(d)(3)).

7 “(2) NO REFUND OF DEFICIT REDUCTION TAX
8 ON DIESEL FUEL USED IN TRAINS.—Subsection (a)
9 shall not apply to so much of the tax imposed by
10 section 4091 as is attributable to a deficit reduction
11 rate in the case of diesel fuel used in a diesel-pow-
12 ered train unless such fuel was used by a State or
13 any political subdivision thereof.

14 “(3) NO REFUND OF PORTION OF TAX ON DIE-
15 SEL FUEL USED IN CERTAIN BUSES.—

16 “(A) IN GENERAL.—Except as provided in
17 subparagraphs (B) and (C), the rate of tax
18 taken into account under subsection (a) with re-
19 spect to diesel fuel used in qualified bus trans-
20 portation (within the meaning of subsection
21 (g)(1)) shall be 3.1 cents per gallon less than
22 the aggregate rate of tax imposed on such fuel
23 by section 4091.

24 “(B) EXCEPTION FOR SCHOOL BUS TRANS-
25 PORTATION.—Subparagraph (A) shall not apply

1 to fuel used in an automobile bus while engaged
2 in transportation described in subsection
3 (g)(1)(B).

4 “(C) EXCEPTION FOR CERTAIN INTRACITY
5 TRANSPORTATION.—Subparagraph (A) shall
6 not apply to fuel used in any automobile bus
7 while engaged in furnishing (for compensation)
8 intracity passenger land transportation—

9 “(i) which is available to the general
10 public, and

11 “(ii) which is scheduled and along
12 regular routes,

13 but only if such bus is a qualified local bus.

14 “(D) QUALIFIED LOCAL BUS.—For pur-
15 poses of this paragraph, the term ‘qualified
16 local bus’ means any local bus—

17 “(i) which has a seating capacity of at
18 least 20 adults (not including the driver),
19 and

20 “(ii) which is under contract with (or
21 is receiving more than a nominal subsidy
22 from) any State or local government (as
23 defined in section 4221(d)) to furnish such
24 transportation.

25 “(4) ALCOHOL FUELS.—

1 “(A) IN GENERAL.—In the case of a fuel
2 used as described in subsection (b)(14) and on
3 which tax was imposed at regular tax rate, the
4 rate of tax taken into account under subsection
5 (a) with respect to the fuel so used shall equal
6 the excess of the regular tax rate over the in-
7 centive tax rate.

8 “(B) REGULAR TAX RATE.—The term
9 ‘regular tax rate’ means—

10 “(i) in the case of gasoline, the aggre-
11 gate rate of tax imposed by section 4081
12 determined without regard to subsection
13 (c) thereof,

14 “(ii) in the case of diesel fuel, the ag-
15 gregate rate of tax imposed by section
16 4091 on such fuel determined without re-
17 gard to subsection (c) thereof, and

18 “(iii) in the case of aviation fuel, the
19 aggregate rate of tax imposed by section
20 4091 on such fuel determined without re-
21 gard to subsection (d) thereof.

22 “(C) INCENTIVE TAX RATE.—The term
23 ‘incentive tax rate’ means—

24 “(i) in the case of gasoline, the aggre-
25 gate rate of tax imposed by section 4081

1 with respect to fuel described in subsection
2 (c)(1) thereof,

3 “(ii) in the case of diesel fuel, the ag-
4 gregate rate of tax imposed by section
5 4091 with respect to fuel described in sub-
6 section (c)(1)(B) thereof, and

7 “(iii) in the case of aviation fuel, the
8 aggregate rate of tax imposed by section
9 4091 with respect to fuel described in sub-
10 section (d)(1)(B) thereof.

11 “(5) GASOHOL USED IN NONCOMMERCIAL AVIA-
12 TION.—If—

13 “(A) tax is imposed by section 4081 at the
14 rate determined under subsection (c) thereof on
15 gasohol (as defined in such subsection), and

16 “(B) such gasohol is used as a fuel in any
17 aircraft in noncommercial aviation (as defined
18 in section 4041(b)),

19 the payment under subsection (a) shall be equal to
20 1.4 cents (2 cents in the case of gasohol none of the
21 alcohol in which consists of ethanol) per gallon of
22 gasohol so used.

23 “(d) TIME FOR FILING CLAIMS; PERIOD COV-
24 ERED.—

1 “(1) GENERAL RULE.—Except as provided in
2 paragraphs (2) and (3), not more than one claim
3 may be filed under this section by any person with
4 respect to fuel used (or a qualified diesel powered
5 highway vehicle purchased) during his taxable year;
6 and no claim shall be allowed under this paragraph
7 with respect to fuel used (or a qualified diesel pow-
8 ered highway vehicle purchased) during any taxable
9 year unless filed by the purchaser not later than the
10 time prescribed by law for filing a claim for credit
11 or refund of overpayment of income tax for such
12 taxable year. For purposes of this subsection, a per-
13 son’s taxable year shall be his taxable year for pur-
14 poses of subtitle A.

15 “(2) EXCEPTIONS.—

16 “(A) IN GENERAL.—If as of the close of
17 any quarter of a person’s taxable year, \$750 or
18 more is payable under this section to such per-
19 son with respect to fuel used (or a qualified die-
20 sel powered highway vehicle purchased) during
21 such quarter or any prior quarter of such tax-
22 able year (and for which no other claim has
23 been filed), a claim may be filed under this sec-
24 tion with respect to fuel so used (or qualified
25 diesel powered highway vehicles so purchased).

1 “(B) TIME FOR FILING CLAIM.—No claim
2 filed under this paragraph shall be allowed un-
3 less filed during the first quarter following the
4 last quarter included in the claim.

5 “(3) SPECIAL RULE FOR GASOHOL CREDIT.—

6 “(A) IN GENERAL.—A claim may be filed
7 for gasoline used to produce gasohol (as defined
8 in section 4081(c)(1)) for any period—

9 “(i) for which \$200 or more is pay-
10 able by reason of subsection (b)(14), and

11 “(ii) which is not less than 1 week.

12 “(B) PAYMENT OF CLAIM.—Notwithstand-
13 ing subsection (a), if the Secretary has not paid
14 a claim filed pursuant to subparagraph (A)
15 within 20 days of the date of the filing of such
16 claim, the claim shall be paid with interest from
17 such date determined by using the overpayment
18 rate and method under section 6621.

19 “(e) USE ON A FARM FOR FARMING.—For purposes
20 of subsection (b)(8)—

21 “(1) IN GENERAL.—Fuel shall be treated as
22 used on a farm for farming purposes only if used—

23 “(A) in carrying on a trade or business,

24 “(B) on a farm situated in the United
25 States, and

1 “(C) for farming purposes.

2 “(2) FARM.—The term ‘farm’ includes stock,
3 dairy, poultry, fruit, fur-bearing animal, and truck
4 farms, plantations, ranches, nurseries, ranges,
5 greenhouses or other similar structures used pri-
6 marily for the raising of agricultural or horticultural
7 commodities, and orchards.

8 “(3) FARMING PURPOSES.—Fuel shall be treat-
9 ed as used for farming purposes only if used—

10 “(A) by the owner, tenant, or operator of
11 a farm, in connection with cultivating the soil,
12 or in connection with raising or harvesting any
13 agricultural or horticultural commodity, includ-
14 ing the raising, shearing, feeding, caring for,
15 training, and management of livestock, bees,
16 poultry, and fur-bearing animals and wildlife,
17 on a farm of which he is the owner, tenant, or
18 operator;

19 “(B) by the owner, tenant, or operator of
20 a farm, in handling, drying, packing, grading,
21 or storing any agricultural or horticultural com-
22 modity in its unmanufactured state; but only if
23 such owner, tenant, or operator produced more
24 than one-half of the commodity which he so

1 treated during the period with respect to which
2 claim is filed;

3 “(C) by the owner, tenant, or operator of
4 a farm, in connection with—

5 “(i) the planting, cultivating, caring
6 for, or cutting of trees, or

7 “(ii) the preparation (other than mill-
8 ing) of trees for market, incidental to
9 farming operations; or

10 “(D) by the owner, tenant, or operator of
11 a farm, in connection with the operation, man-
12 agement, conservation, improvement, or mainte-
13 nance of such farm and its tools and equip-
14 ment.

15 “(4) CERTAIN FARMING USE OTHER THAN BY
16 OWNER, ETC.—In applying paragraph (3)(A) to a
17 use on a farm for any purpose described in para-
18 graph (3)(A) by any person other than the owner,
19 tenant, or operator of such farm—

20 “(A) the owner, tenant, or operator of such
21 farm shall be treated as the user and ultimate
22 purchaser of the fuel, except that

23 “(B) if the person so using the fuel is an
24 aerial or other applicator of fertilizers or other
25 substances and is the ultimate purchaser of the

1 fuel, then subparagraph (A) of this paragraph
2 shall not apply and the aerial or other applica-
3 tor shall be treated as having used such fuel on
4 a farm for farming purposes.

5 “(f) OFF-HIGHWAY BUSINESS USE.—For purposes
6 of subsection (b)(9)—

7 “(1) IN GENERAL.—The term ‘off-highway
8 business use’ means any use by a person in a trade
9 or business of such person or in an activity of such
10 person described in section 212 (relating to produc-
11 tion of income) other than as a fuel in a highway
12 vehicle—

13 “(A) which (at the time of such use) is
14 registered, or is required to be registered, for
15 highway use under the laws of any State or for-
16 eign country, or

17 “(B) which, in the case of a highway vehi-
18 cle owned by the United States, is used on the
19 highway.

20 “(2) USES IN MOTORBOATS.—The term ‘off-
21 highway business use’ does not include any use in a
22 motorboat. The preceding sentence shall not apply to
23 use in a vessel employed in the fisheries or in the
24 whaling business.

1 “(g) QUALIFIED BUS TRANSPORTATION.—For pur-
2 poses of subsection (b)(10)—

3 “(1) IN GENERAL.—Fuel is used in qualified
4 bus transportation if it is used in an automobile bus
5 while engaged in—

6 “(A) furnishing (for compensation) pas-
7 senger land transportation available to the gen-
8 eral public, or

9 “(B) the transportation of students and
10 employees of schools (as defined in the last sen-
11 tence of section 4221(d)(7)(C)).

12 “(2) LIMITATION IN THE CASE OF NON-
13 SCHEDULED INTERCITY OR LOCAL BUSES.—Para-
14 graph (1)(A) shall not apply in respect of fuel used
15 in any automobile bus while engaged in furnishing
16 transportation which is not along regular routes un-
17 less the seating capacity of such bus is at least 20
18 adults (not including the driver).

19 “(h) USE BY AN AIRCRAFT MUSEUM.—For purposes
20 of subsection (b)(11)—

21 “(1) IN GENERAL.—Fuel is used by an aircraft
22 museum if it is used in an aircraft or vehicle owned
23 by such museum and used exclusively for purposes
24 set forth in paragraph (2)(C).

1 “(2) AIRCRAFT MUSEUM.—For purposes of this
2 subsection, the term ‘aircraft museum’ means an or-
3 ganization—

4 “(A) described in section 501(c)(3) which
5 is exempt from income tax under section
6 501(a),

7 “(B) operated as a museum under charter
8 by a State or the District of Columbia, and

9 “(C) operated exclusively for the procure-
10 ment, care, and exhibition of aircraft of the
11 type used for combat or transport in World
12 War II.

13 “(i) USE IN A NONPURPOSE USE.—For purposes of
14 subsection (b)(12), fuel is used in a nonpurpose use if—

15 “(1) tax was imposed by section 4041 on the
16 sale thereof and the purchaser—

17 “(A) uses such fuel other than for the use
18 for which it is sold, or

19 “(B) resells such fuel, or

20 “(2) tax was imposed by section 4081 on any
21 gasoline blend stock or product commonly used as
22 an additive in gasoline and the purchaser establishes
23 that the ultimate use of such blend stock or product
24 is not to produce gasoline.

1 “(j) ADVANCE REPAYMENT OF INCREASED DIESEL
2 FUEL TAX TO ORIGINAL PURCHASERS OF DIESEL-POW-
3 ERED AUTOMOBILES AND LIGHT TRUCKS.—

4 “(1) IN GENERAL.—Except as provided in sub-
5 section (d), the Secretary shall pay (without inter-
6 est) to the original purchaser of any qualified diesel-
7 powered highway vehicle an amount equal to the die-
8 sel fuel differential amount.

9 “(2) QUALIFIED DIESEL-POWERED HIGHWAY
10 VEHICLE.—For purposes of this subsection, the term
11 ‘qualified diesel-powered highway vehicle’ means any
12 diesel-powered highway vehicle which—

13 “(A) has at least 4 wheels,

14 “(B) has a gross vehicle weight rating of
15 10,000 pounds or less, and

16 “(C) is registered for highway use in the
17 United States under the laws of any State.

18 “(3) DIESEL FUEL DIFFERENTIAL AMOUNT.—
19 For purposes of this subsection, the term ‘diesel fuel
20 differential amount’ means—

21 “(A) except as provided in subparagraph
22 (B), \$102, or

23 “(B) in the case of a truck or van, \$198.

24 “(4) ORIGINAL PURCHASER.—For purposes of
25 this subsection—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), the term ‘original purchaser’
3 means the first person to purchase the qualified
4 diesel-powered vehicle for use other than resale.

5 “(B) EXCEPTION FOR CERTAIN PERSONS
6 NOT SUBJECT TO FUELS TAX.—The term ‘origi-
7 nal purchaser’ shall not include any State or
8 local government (as defined in section
9 4221(d)(4)) or any nonprofit educational orga-
10 nization (as defined in section 4221(d)(5)).

11 “(C) TREATMENT OF DEMONSTRATION
12 USE BY DEALER.—For purposes of subpara-
13 graph (A), use as a demonstrator by a dealer
14 shall not be taken into account.

15 “(5) VEHICLES TO WHICH SUBSECTION AP-
16 PLIES.—This subsection shall only apply to qualified
17 diesel-powered highway vehicles originally purchased
18 after January 1, 1985, and before January 1, 1995.

19 “(6) BASIS REDUCTION.—For the purposes of
20 subtitle A, the basis of any qualified diesel-powered
21 highway vehicle shall be reduced by the amount pay-
22 able under this subsection with respect to such vehi-
23 cle.

24 “(k) INCOME TAX CREDIT IN LIEU OF PAYMENT;
25 OTHER SPECIAL RULES.—

1 “(1) INCOME TAX CREDIT IN LIEU OF PAY-
2 MENT.—

3 “(A) PERSONS NOT SUBJECT TO INCOME
4 TAX.—Payment shall be made under this sec-
5 tion only to—

6 “(i) the United States or an agency or
7 instrumentality thereof, a State, a political
8 subdivision of a State, or any agency or in-
9 strumentality of one or more States or po-
10 litical subdivisions, or

11 “(ii) an organization exempt from tax
12 under section 501(a) (other than an orga-
13 nization required to make a return of the
14 tax imposed under subtitle A for its tax-
15 able year).

16 “(B) EXCEPTION.—Subparagraph (A)
17 shall not apply to a payment of a claim filed
18 under paragraph (2) or (3) of subsection (d).

19 “(C) ALLOWANCE OF CREDIT AGAINST IN-
20 COME TAX.—

**“For allowances of credit against the income tax
imposed by subtitle A for fuel used by the purchaser
in an exempt use, see section 34.**

21 “(2) APPLICABLE LAWS.—

22 “(A) IN GENERAL.—All provisions of law,
23 including penalties, applicable in respect of the
24 tax with respect to which a payment is claimed

1 under this section shall, insofar as applicable
2 and not inconsistent with this section, apply in
3 respect of such payment to the same extent as
4 if such payment constituted a refund of over-
5 payments of such tax.

6 “(B) EXAMINATION OF BOOKS AND WIT-
7 NESSES.—For the purpose of ascertaining the
8 correctness of any claim made under this sec-
9 tion, or the correctness of any payment made in
10 respect of any such claim, the Secretary shall
11 have the authority granted by paragraphs (1),
12 (2), and (3) of section 7602(a) (relating to ex-
13 amination of books and witnesses) as if the
14 claimant were the person liable for tax.

15 “(3) COORDINATION WITH SECTION 6416,
16 ETC.—No amount shall be payable under this sec-
17 tion to any person with respect to any fuel if the
18 Secretary determines that the amount of tax for
19 which such payment is sought was not included in
20 the price paid by such person for such fuel. The
21 amount which would (but for this sentence) be pay-
22 able under this section with respect to any fuel shall
23 be reduced by any other amount which the Secretary
24 determines is payable under this section, or is re-

1 fundable under any other provision of this title, to
 2 any person with respect to such fuel.

3 “(4) REGULATIONS.—The Secretary may by
 4 regulations prescribe the conditions, not inconsistent
 5 with the provisions of this section, under which pay-
 6 ments may be made under this section.

7 “(l) FUELS.—For purposes of this section, the terms
 8 ‘gasoline’, ‘diesel fuel’, and ‘aviation fuel’ have the respec-
 9 tive meanings given such terms by sections 4082 and
 10 4092.

11 “(m) TERMINATION.—Except as otherwise provided
 12 in this section, this section shall not apply to any liquid
 13 purchased after September 30, 1999. The preceding sen-
 14 tence shall not apply to taxes attributable to any Leaking
 15 Underground Storage Tank Trust Fund financing rate.”

16 **SEC. 803. AUTHORITY TO PROVIDE EXCEPTIONS FROM IN-**
 17 **FORMATION REPORTING WITH RESPECT TO**
 18 **DIESEL FUEL AND AVIATION FUEL.**

19 (a) RETURNS BY PRODUCERS AND IMPORTERS.—
 20 Subparagraph (A) of section 4093(c)(4) (relating to re-
 21 turns by producers and importers) is amended by striking
 22 “Each producer” and inserting “Except as provided by
 23 the Secretary by regulations, each producer”.

24 (b) RETURNS BY PURCHASERS.—Subparagraph (C)
 25 of section 4093(c)(4) (relating to returns by purchasers)

1 is amended by striking “Each person” and inserting “Ex-
2 cept as provided by the Secretary by regulations, each per-
3 son”.

4 **SEC. 804. TECHNICAL AND CONFORMING AMENDMENTS.**

5 (1) Sections 6421 and 6427 are hereby re-
6 pealed.

7 (2) Section 34 is amended to read as follows:

8 **“SEC. 34. EXCISE TAXES ON FUEL USED FOR EXEMPT PUR-**
9 **POSES.**

10 “There shall be allowed as a credit against the tax
11 imposed by this subtitle for the taxable year an amount
12 equal to the excess of—

13 “(1) the aggregate amount payable to the tax-
14 payer under section 6420 (determined without re-
15 gard to section 6420(k)(1)) with respect to—

16 “(A) exempt uses (as defined in section
17 6420(b)) during such taxable year, and

18 “(B) qualified diesel-powered highway vehi-
19 cles purchased during such taxable year, over

20 “(2) the portion of such amount for which a
21 claim payable under section 6420(d) is timely filed.”

22 (3) Subsection (c) of section 40 is amended by
23 striking “subsection (b)(2), (k), or (m)” and insert-
24 ing “subsection (a)(4) or (b)(4)”.

1 (4) Paragraph (2) of section 451(e) is amended
2 by striking “section 6420(c)(3)” and inserting “sec-
3 tion 6420(e)(3)”.

4 (5) Clause (i) of section 1274(c)(3)(A) is
5 amended by striking “section 6420(c)(2)” and in-
6 serting “section 6420(e)(2)”.

7 (6) Sections 874(a) and 1366(f)(1) are each
8 amended by striking “gasoline and special” and in-
9 serting “taxable”.

10 (7) Paragraph (2) of section 882(c) is amended
11 by striking “gasoline” and inserting “taxable fuels”.

12 (8) Subsection (b) of section 4042 is amended
13 by striking paragraph (3) and by redesignating
14 paragraph (4) as paragraph (3).

15 (9) Subsection (b) of section 4082 is amended
16 by striking “special fuels referred to in section
17 4041” and inserting “special motor fuels referred to
18 in section 4041(a)”.

19 (10) Section 4083 is amended to read as fol-
20 lows:

21 **“SEC. 4083. CROSS REFERENCE.**

22 “For provision allowing a credit or refund for gaso-
23 line used for exempt purposes, see section 6420.”

1 (11) Subsections (c)(2) and (d)(2) of section
2 4091 are each amended by striking “section
3 6427(f)(1)” and inserting “section 6420(b)(14)”.

4 (12) Paragraph (1) of section 4093(c) is
5 amended by striking “by the purchaser” and all that
6 follows and inserting “by the purchaser in an ex-
7 empt use (as defined in section 6420(b) other than
8 paragraph (14) thereof).”

9 (13) Subparagraph (C) of section 4093(c)(2) is
10 amended by striking “section 6427(b)(2)(A)” and
11 inserting “section 6420(c)(3)(A)”.

12 (14) Clause (i) of section 4093(c)(4)(C) is
13 amended to read as follows:

14 “(i) whether such use was an exempt
15 use (as defined in section 6420(b)) and the
16 amount of fuel so used,”.

17 (15) Section 4093 is amended by redesignating
18 subsection (e) as subsection (f) and by inserting
19 after subsection (d) the following new subsection:

20 “(e) USE BY PRODUCER OR IMPORTER.—If any pro-
21 ducer or importer uses any taxable fuel, then such pro-
22 ducer or importer shall be liable for tax under section
23 4091 in the same manner as if such fuel were sold by
24 him for such use.”

1 (16) Subsection (f) of section 4093, as redesignig-
2 nated by paragraph (15), is amended to read as fol-
3 lows:

4 “(e) CROSS REFERENCE.—

5 “For provision allowing a credit or refund for
6 fuel used for exempt purposes, see section 6420.”

7 (17) Section 6206 is amended to read as fol-
8 lows:

9 **“SEC. 6206. SPECIAL RULES APPLICABLE TO EXCESSIVE**
10 **FUEL TAX REFUND CLAIMS.**

11 “Any portion of a payment made under section 6420
12 which constitutes an excessive amount (as defined in sec-
13 tion 6675(b)), and any civil penalty provided by section
14 6675, may be assessed and collected as if—

15 “(1) it were a tax imposed by the section to
16 which the claim relates, and

17 “(2) the person making the claim were liable
18 for such tax.

19 The period for assessing any such portion, and for assess-
20 ing any such penalty, shall be 3 years from the last day
21 prescribed for filing the claim under section 6420.”

22 (18) Subparagraph (A) of section 6416(a)(2) is
23 amended by striking “(relating to tax on special
24 fuels)” and inserting “(relating to special motor
25 fuels and noncommercial aviation gasoline)”.

1 (19) Paragraph (2) of section 6416(b) is
2 amended—

3 (A) in the matter preceding subparagraph
4 (A) by striking “subsection (a) or (d) of section
5 4041” and inserting “section 4041(a)”, and

6 (B) in subparagraph (F) by striking “spe-
7 cial fuels referred to in section 4041” and in-
8 serting “special motor fuels referred to in sec-
9 tion 4041(a)”.

10 (20) Paragraph (9) of section 6504 is amended
11 to read as follows:

12 “(9) Assessments to recover excessive amounts
13 paid under section 6420 (relating to certain taxes on
14 fuels used for exempt purposes) and assessments of
15 civil penalties under section 6675 for excessive
16 claims under section 6420, see section 6206.”

17 (21) Subsection (h) of section 6511 is amended
18 by striking paragraphs (5) and (6), by redesignating
19 paragraph (7) as paragraph (6), and by inserting
20 after paragraph (4) the following new paragraph:

21 “(5) For limitations in the case of payments
22 under section 6420 (relating to certain taxes on
23 fuels used for exempt purposes), see section
24 6420(d).”

1 (22) Subsection (c) of section 6612 is amended
2 by striking “6420 (relating to payments in the case
3 of gasoline used on the farm for farming purposes)
4 and 6421 (relating to payments in the case of gaso-
5 line used for certain nonhighway purposes or by
6 local transit systems)” and inserting “and 6420 (re-
7 lating to certain taxes on fuels used for exempt pur-
8 poses)”.

9 (23) Subsection (a) of section 6675 is amended
10 by striking “section 6420 (relating to gasoline used
11 on farms), 6421 (relating to gasoline used for cer-
12 tain nonhighway purposes or by local transit sys-
13 tems), or 6427 (relating to fuels not used for taxable
14 purposes)” and inserting “section 6420 (relating to
15 certain taxes on fuels used for exempt purposes)”.

16 (24) Paragraph (1) of section 6675(b) is
17 amended by striking “, 6421, or 6427, as the case
18 may be,”.

19 (25) Section 7210 is amended by striking “sec-
20 tions 6420(e)(2), 6421(g)(2), 6427(j)(2)” and in-
21 serting “sections 6420(k)(3)(B)”.

22 (26) Section 7603, subsections (b) and (c)(2) of
23 section 7604, section 7605, and 7610(c) are each
24 amended by striking “section 6420(e)(2),

1 6421(g)(2), 6427(j)(2),” each place it appears and
2 inserting “section 6420(k)(2)(B)”.

3 (27) Sections 7605 and 7609(c)(1) are each
4 amended by striking “section 6420(e)(2),
5 6421(g)(2), or 6427(j)(2)” and inserting “section
6 6420(k)(2)(B)”.

7 (28) Paragraph (1) of section 9502(b) is
8 amended by striking “subsections (c) and (e) of sec-
9 tion 4041 (taxes on aviation fuel)” and inserting
10 “section 4041(b) (relating to taxes on noncommer-
11 cial aviation gasoline)”.

12 (29) Paragraph (2) of section 9502(d) is
13 amended by striking “fuel used in aircraft” and all
14 that follows and inserting “fuel used in aircraft,
15 under section 6420 (relating to certain taxes on
16 fuels used for exempt purposes).”

17 (30) Paragraph (1) of section 9502(e) is
18 amended by striking “4041(c)(1) and”.

19 (31) Subparagraph (A) of section 9503(b)(1) is
20 amended to read as follows:

21 “(A) section 4041 (relating to special
22 motor fuels and noncommercial aviation
23 gasoline),”.

24 (32) Paragraph (4) of section 9503(b) is
25 amended to read as follows:

1 “(4) CERTAIN ADDITIONAL TAXES NOT TRANS-
2 FERRED TO HIGHWAY TRUST FUND.—For purposes
3 of paragraphs (1) and (2), the taxes imposed by sec-
4 tions 4041, 4081, and 4091 shall be taken into ac-
5 count only to the extent attributable to the Highway
6 Trust Fund financing rates under such sections.”

7 (33)(A) Clause (i) of section 9503(c)(2)(A) is
8 amended to read as follows:

9 “(i) the amounts paid before July 1,
10 1996, under section 6420 (relating to cer-
11 tain taxes on fuels used for exempt pur-
12 poses) on the basis of claims filed for peri-
13 ods ending before October 1, 1995, and”.

14 (B) For purposes of section 9503(c)(2)(A)(i) of
15 the Internal Revenue Code of 1986, the reference to
16 section 6420 shall be treated as including a ref-
17 erence to sections 6420, 6421, and 6427 of such
18 Code as in effect before the enactment of this Act.

19 (34) Clause (ii) of section 9503(c)(2)(A) is
20 amended by striking “gasoline, special fuels, and lu-
21 bricating oil” each place it appears and inserting
22 “taxable fuels”.

23 (35) Subparagraph (D) of section 9503(c)(4) is
24 amended by striking “section 4041(a)(2)” and in-
25 serting “section 4041(a)”.

1 (36) Subparagraph (A) of section 9503(e)(5) is
2 amended by striking “section 6427(g)” and inserting
3 “section 6420(j)”.

4 (37) Paragraph (1) of section 9508(b) is
5 amended to read as follows:

6 “(1) taxes received in the Treasury under sec-
7 tion 4041 (relating to special motor fuels and non-
8 commercial aviation gasoline) to the extent attrib-
9 utable to the Leaking Underground Storage Tank
10 Trust Fund financing rates applicable under such
11 section,”.

12 (38) Subparagraph (A) of section 9508(c)(2) is
13 amended by striking “equivalent to—” and all that
14 follows and inserting the following: “equivalent to—

15 “(i) amounts paid under section 6420
16 (relating to certain taxes on fuels used for
17 exempt purposes), and

18 “(ii) credits allowed under section 34,
19 with respect to so much of the taxes imposed by
20 sections 4041, 4081, and 4091 as are attrib-
21 utable to the Leaking Underground Storage
22 Tank Trust Fund financing rates applicable
23 under such sections.”

24 (39) The table of sections for subpart C of part
25 IV of subchapter A of chapter 1 is amended by

1 striking the item relating to section 34 and inserting
2 the following:

“Sec. 34. Excise taxes on fuels used for exempt purposes.”

3 (40) The table of sections for subchapter B of
4 chapter 31 is amended by striking the item relating
5 to section 4041 and inserting the following:

“Sec. 4041. Special motor fuels and noncommercial aviation gaso-
line.”

6 (41) The table of sections for subpart A of part
7 III of subchapter A of chapter 32 is amended by
8 striking the item relating to section 4083 and insert-
9 ing the following:

“Sec. 4083. Cross reference.”

10 (42) The table of sections for subchapter B of
11 chapter 65 is amended by striking the items relating
12 to sections 6421 and 6427 and by striking the item
13 relating to section 6420 and inserting the following
14 new item:

“Sec. 6420. Certain taxes on fuels used for exempt purposes.”

15 (43) The table of sections for subchapter A of
16 chapter 63 is amended by striking the item relating
17 to section 6206 and inserting the following new
18 item:

“Sec. 6206. Special rules applicable to excessive fuel tax refund
claims.”

1 **SEC. 805. EFFECTIVE DATE.**

2 The amendments made by this subtitle shall take ef-
3 fect on January 1, 1994.

4 **Subtitle B—Provisions Related to**
5 **Distilled Spirits, Wines, and Beer**

6 **SEC. 811. CREDIT OR REFUND FOR IMPORTED BOTTLED**
7 **DISTILLED SPIRITS RETURNED TO DIS-**
8 **TILLED SPIRITS PLANT.**

9 (a) IN GENERAL.—Paragraph (1) of section 5008(c)
10 (relating to distilled spirits returned to bonded premises)
11 is amended by striking “withdrawn from bonded premises
12 on payment or determination of tax” and inserting “on
13 which tax has been determined or paid”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall take effect on the 180th day after the
16 date of the enactment of this Act.

17 **SEC. 812. AUTHORITY TO CANCEL OR CREDIT EXPORT**
18 **BONDS WITHOUT SUBMISSION OF RECORDS.**

19 (a) IN GENERAL.—Subsection (c) of section 5175
20 (relating to export bonds) is amended by striking “on the
21 submission of” and all that follows and inserting “if there
22 is such proof of exportation as the Secretary may by regu-
23 lations require.”

24 (b) EFFECTIVE DATE.—The amendment made by
25 subsection (a) shall take effect on the 180th day after the
26 date of the enactment of this Act.

1 **SEC. 813. REPEAL OF REQUIRED MAINTENANCE OF**
2 **RECORDS ON PREMISES OF DISTILLED SPIR-**
3 **ITS PLANT.**

4 (a) IN GENERAL.—Subsection (c) of section 5207
5 (relating to records and reports) is amended by striking
6 “shall be kept on the premises where the operations cov-
7 ered by the record are carried on and”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 subsection (a) shall take effect on the 180th day after the
10 date of the enactment of this Act.

11 **SEC. 814. FERMENTED MATERIAL FROM ANY BREWERY**
12 **MAY BE RECEIVED AT A DISTILLED SPIRITS**
13 **PLANT.**

14 (a) IN GENERAL.—Paragraph (2) of section 5222(b)
15 (relating to production, receipt, removal, and use of distill-
16 ing materials) is amended to read as follows:

17 “(2) beer conveyed without payment of tax
18 from brewery premises, beer which has been lawfully
19 removed from brewery premises upon determination
20 of tax, or”.

21 (b) CLARIFICATION OF AUTHORITY TO PERMIT RE-
22 MOVAL OF BEER WITHOUT PAYMENT OF TAX FOR USE
23 AS DISTILLING MATERIAL.—Section 5053 (relating to ex-
24 emptions) is amended by redesignating subsection (f) as
25 subsection (i) and by inserting after subsection (e) the fol-
26 lowing new subsection:

1 “(f) REMOVAL FOR USE AS DISTILLING MATE-
2 RIAL.—Subject to such regulations as the Secretary may
3 prescribe, beer may be removed from a brewery without
4 payment of tax to any distilled spirits plant for use as
5 distilling material.”

6 (c) CLARIFICATION OF REFUND AND CREDIT OF
7 TAX.—Section 5056 (relating to refund and credit of tax,
8 or relief from liability) is amended—

9 (1) by redesignating subsection (c) as sub-
10 section (d) and by inserting after subsection (b) the
11 following new subsection:

12 “(c) BEER RECEIVED AT A DISTILLED SPIRITS
13 PLANT.—Any tax paid by any brewer on beer produced
14 in the United States may be refunded or credited to the
15 brewer, without interest, or if the tax has not been paid,
16 the brewer may be relieved of liability therefor, under reg-
17 ulations as the Secretary may prescribe, if such beer is
18 received on the bonded premises of a distilled spirits plant
19 pursuant to the provisions of section 5222(b)(2), for use
20 in the production of distilled spirits.”, and

21 (2) by striking “or rendering unmerchantable”
22 in subsection (d) (as so redesignated) and inserting
23 “rendering unmerchantable, or receipt on the bond-
24 ed premises of a distilled spirits plant”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the 180th day after the
3 date of the enactment of this Act.

4 **SEC. 815. REPEAL OF REQUIREMENT FOR WHOLESALE**
5 **DEALERS IN LIQUORS TO POST SIGN.**

6 (a) IN GENERAL.—Section 5115 (relating to sign re-
7 quired on premises) is hereby repealed.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Subsection (a) of section 5681 is amended
10 by striking “, and every wholesale dealer in liquors,”
11 and by striking “section 5115(a) or”.

12 (2) Subsection (c) of section 5681 is amend-
13 ed—

14 (A) by striking “or wholesale liquor estab-
15 lishment, on which no sign required by section
16 5115(a) or” and inserting “on which no sign
17 required by”, and

18 (B) by striking “or wholesale liquor estab-
19 lishment, or who” and inserting “or who”.

20 (3) The table of sections for subpart D of part
21 II of subchapter A of chapter 51 is amended by
22 striking the item relating to section 5115.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall take effect on the date of the enactment
25 of this Act.

1 **SEC. 816. REFUND OF TAX TO WINE RETURNED TO BOND**
2 **NOT LIMITED TO UNMERCHANTABLE WINE.**

3 (a) IN GENERAL.—Subsection (a) of section 5044
4 (relating to refund of tax on unmerchantable wine) is
5 amended by striking “as unmerchantable”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Section 5361 is amended by striking
8 “unmerchantable”.

9 (2) The section heading for section 5044 is
10 amended by striking “**UNMERCHANTABLE**”.

11 (3) The item relating to section 5044 in the
12 table of sections for subpart C of part I of sub-
13 chapter A of chapter 51 is amended by striking
14 “unmerchantable”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect on the 180th day after the
17 date of the enactment of this Act.

18 **SEC. 817. USE OF ADDITIONAL AMELIORATING MATERIAL**
19 **IN CERTAIN WINES.**

20 (a) IN GENERAL.—Subparagraph (D) of section
21 5384(b)(2) (relating to ameliorated fruit and berry wines)
22 is amended by striking “loganberries, currants, or goose-
23 berries,” and inserting “any fruit or berry with a natural
24 fixed acid of 20 parts per thousand or more (before any
25 correction of such fruit or berry)”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall take effect on the 180th day after the
3 date of the enactment of this Act.

4 **SEC. 818. DOMESTICALLY-PRODUCED BEER MAY BE WITH-**
5 **DRAWN FREE OF TAX FOR USE OF FOREIGN**
6 **EMBASSIES, LEGATIONS, ETC.**

7 (a) IN GENERAL.—Section 5053 (relating to exemp-
8 tions) is amended by inserting after subsection (f) the fol-
9 lowing new subsection:

10 “(g) REMOVALS FOR USE OF FOREIGN EMBASSIES,
11 LEGATIONS, ETC.—

12 “(1) IN GENERAL.—Subject to such regulations
13 as the Secretary may prescribe—

14 “(A) beer may be withdrawn from the
15 brewery without payment of tax for transfer to
16 any customs bonded warehouse for entry pend-
17 ing withdrawal therefrom as provided in sub-
18 paragraph (B), and

19 “(B) beer entered into any customs bonded
20 warehouse under subparagraph (A) may be
21 withdrawn for consumption in the United
22 States by, and for the official and family use of,
23 such foreign governments, organizations, and
24 individuals as are entitled to withdraw imported
25 beer from such warehouses free of tax.

1 Beer transferred to any customs bonded warehouse
2 under subparagraph (A) shall be entered, stored,
3 and accounted for in such warehouse under such
4 regulations and bonds as the Secretary may pre-
5 scribe, and may be withdrawn therefrom by such
6 governments, organizations, and individuals free of
7 tax under the same conditions and procedures as im-
8 ported beer.

9 “(2) OTHER RULES TO APPLY.—Rules similar
10 to the rules of paragraphs (2) and (3) of section
11 5362(e) of such section shall apply for purposes of
12 this subsection.”

13 (b) EFFECTIVE DATE.—The amendment made by
14 subsection (a) shall take effect on the 180th day after the
15 date of the enactment of this Act.

16 **SEC. 819. BEER MAY BE WITHDRAWN FREE OF TAX FOR**
17 **DESTRUCTION.**

18 (a) IN GENERAL.—Section 5053 is amended by in-
19 serting after subsection (g) the following new subsection:

20 “(h) REMOVALS FOR DESTRUCTION.—Subject to
21 such regulations as the Secretary may prescribe, beer may
22 be removed from the brewery without payment of tax for
23 destruction.”

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall take effect on the 180th day after the
3 date of the enactment of this Act.

4 **SEC. 820. AUTHORITY TO ALLOW DRAWBACK ON EX-**
5 **PORTED BEER WITHOUT SUBMISSION OF**
6 **RECORDS.**

7 (a) IN GENERAL.—The first sentence of section 5055
8 (relating to drawback of tax on beer) is amended by strik-
9 ing “found to have been paid” and all that follows and
10 inserting “paid on such beer if there is such proof of ex-
11 portation as the Secretary may by regulations require.”

12 (b) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall take effect on the 180th day after the
14 date of the enactment of this Act.

15 **SEC. 821. TRANSFER TO BREWERY OF BEER IMPORTED IN**
16 **BULK WITHOUT PAYMENT OF TAX.**

17 (a) IN GENERAL.—Part II of subchapter G of chap-
18 ter 51 is amended by adding at the end thereof the follow-
19 ing new section:

20 **“SEC. 5418. BEER IMPORTED IN BULK.**

21 “Beer imported or brought into the United States in
22 bulk containers may, under such regulations as the Sec-
23 retary may prescribe, be withdrawn from customs custody
24 and transferred in such bulk containers to the premises
25 of a brewery without payment of the internal revenue tax

1 imposed on such beer. The proprietor of a brewery to
 2 which such beer is transferred shall become liable for the
 3 tax on the beer withdrawn from customs custody under
 4 this section upon release of the beer from customs custody,
 5 and the importer, or the person bringing such beer into
 6 the United States, shall thereupon be relieved of the liabil-
 7 ity for such tax.”

8 (b) CLERICAL AMENDMENT.—The table of sections
 9 for such part II is amended by adding at the end thereof
 10 the following new item:

“Sec. 5418. Beer imported in bulk.”

11 (c) EFFECTIVE DATE.—The amendments made by
 12 this section shall take effect on the 180th day after the
 13 date of the enactment of this Act.

14 **Subtitle C—Other Excise Tax**

15 **Provisions**

16 **SEC. 831. AUTHORITY TO GRANT EXEMPTIONS FROM REG-**

17 **ISTRATION REQUIREMENTS.**

18 (a) IN GENERAL.—The first sentence of section 4222
 19 (relating to registration) is amended to read as follows:
 20 “Except as provided in subsection (b), section 4221 shall
 21 not apply with respect to the sale of any article by or to
 22 any person who is required by the Secretary to be reg-
 23 istered under this section and who is not so registered.”

1 (b) EFFECTIVE DATE.—The amendment made by
 2 subsection (a) shall apply to sales after the 180th day
 3 after the date of the enactment of this Act.

4 **SEC. 832. REPEAL OF EXPIRED PROVISIONS.**

5 (a) PIGGY-BACK TRAILERS.—Section 4051 is amend-
 6 ed by striking subsection (d) and by redesignating sub-
 7 section (e) as subsection (d).

8 (b) DEEP SEABED MINING.—

9 (1) Subchapter F of chapter 36 (relating to tax
 10 on removal of hard mineral resources from deep sea-
 11 bed) is hereby repealed.

12 (2) The table of subchapters for chapter 36 is
 13 amended by striking the item relating to subchapter
 14 F.

15 **TITLE IX—ADMINISTRATIVE**
 16 **PROVISIONS**

17 **Subtitle A—General Provisions**

18 **SEC. 901. SIMPLIFICATION OF EMPLOYMENT TAXES ON**
 19 **DOMESTIC SERVICES.**

20 (a) THRESHOLD REQUIREMENT FOR SOCIAL SECU-
 21 RITY TAXES.—

22 (1) Subparagraph (B) of section 3121(a)(7)
 23 (defining wages) is amended to read as follows:

24 “(B) cash remuneration paid by an em-
 25 ployer in any calendar year to an employee for

1 domestic service in a private home of the em-
2 ployer, if the cash remuneration paid in such
3 year by the employer to the employee for such
4 service is less than \$300. As used in this sub-
5 paragraph, the term ‘domestic service in a pri-
6 vate home of the employer’ does not include
7 service described in subsection (g)(5);”

8 (2) Subparagraph (B) of section 209(a)(6) of
9 the Social Security Act is amended to read as fol-
10 lows:

11 “(B) Cash remuneration paid by an em-
12 ployer in any calendar year to an employee for
13 domestic service in a private home of the em-
14 ployer, if the cash remuneration paid in such
15 year by the employer to the employee for such
16 service is less than \$300. As used in this sub-
17 paragraph, the term ‘domestic service in a pri-
18 vate home of the employer’ does not include
19 service described in section 210(f)(5).”

20 (3) The second sentence of section 3102(a) is
21 amended—

22 (A) by striking “calendar quarter” each
23 place it appears and inserting “calendar year”,
24 and

1 (B) by striking “\$50” and inserting
2 “\$300”.

3 (b) COORDINATION OF COLLECTION OF DOMESTIC
4 SERVICE EMPLOYMENT WITH COLLECTION OF INCOME
5 TAXES.—

6 (1) IN GENERAL.—Chapter 25 (relating to gen-
7 eral provisions relating to employment taxes) is
8 amended by adding at the end thereof the following
9 new section:

10 **“SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC**
11 **SERVICE EMPLOYMENT TAXES WITH COLLEC-**
12 **TION OF INCOME TAXES.**

13 “(a) GENERAL RULE.—Except as otherwise provided
14 in this section—

15 “(1) returns with respect to domestic service
16 employment taxes shall be made on a calendar year
17 basis,

18 “(2) any such return for any calendar year
19 shall be filed on or before the 15th day of the fourth
20 month following the close of the employer’s taxable
21 year which begins in such calendar year, and

22 “(3) no requirement to make deposits (or to
23 pay installments under section 6157) shall apply
24 with respect to such taxes.

1 “(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUB-
2 JECT TO ESTIMATED TAX PROVISIONS.—

3 “(1) IN GENERAL.—Solely for purposes of sec-
4 tion 6654, domestic service employment taxes im-
5 posed with respect to any calendar year shall be
6 treated as a tax imposed by chapter 2 for the tax-
7 able year of the employer which begins in such cal-
8 endar year.

9 “(2) ANNUALIZATION.—Under regulations pre-
10 scribed by the Secretary, appropriate adjustments
11 shall be made in the application of section
12 6654(d)(2) in respect of the amount treated as tax
13 under paragraph (1).

14 “(3) TRANSITIONAL RULE.—For purposes of
15 applying section 6654 to a taxable year beginning in
16 1992, the amount referred to in clause (ii) of section
17 6654(d)(1)(B) shall be increased by 90 percent of
18 the amount treated as tax under paragraph (1) for
19 such taxable year.

20 “(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—
21 For purposes of this section, the term ‘domestic service
22 employment taxes’ means—

23 “(1) any taxes imposed by chapter 21 or 23 on
24 remuneration paid for domestic service in a private
25 home of the employer, and

1 “(2) any amount withheld from such remunera-
2 tion pursuant to an agreement under section
3 3402(p).

4 For purposes of this subsection, the term ‘domestic service
5 in a private home of the employer’ does not include service
6 described in section 3121(g)(5).

7 “(d) EXCEPTION WHERE EMPLOYER LIABLE FOR
8 OTHER EMPLOYMENT TAXES.—To the extent provided in
9 regulations prescribed by the Secretary, this section shall
10 not apply to any employer for any calendar year if such
11 employer is liable for any tax under this subtitle with re-
12 spect to remuneration for services other than domestic
13 service in a private home of the employer.

14 “(e) GENERAL REGULATORY AUTHORITY.—The Sec-
15 retary shall prescribe such regulations as may be nec-
16 essary or appropriate to carry out the purposes of this
17 section. Such regulations may treat domestic service em-
18 ployment taxes as taxes imposed by chapter 1 for purposes
19 of coordinating the assessment and collection of such em-
20 ployment taxes with the assessment and collection of do-
21 mestic employers’ income taxes.

22 “(f) AUTHORITY TO ENTER INTO AGREEMENTS TO
23 COLLECT STATE UNEMPLOYMENT TAXES.—

24 “(1) IN GENERAL.—The Secretary is hereby
25 authorized to enter into an agreement with any

1 State to collect, as the agent of such State, such
2 State's unemployment taxes imposed on remunera-
3 tion paid for domestic service in a private home of
4 the employer. Any taxes to be collected by the Sec-
5 retary pursuant to such an agreement shall be treat-
6 ed as domestic service employment taxes for pur-
7 poses of this section.

8 “(2) TRANSFERS TO STATE ACCOUNT.—Any
9 amount collected under an agreement referred to in
10 paragraph (1) shall be transferred by the Secretary
11 to the account of the State in the Unemployment
12 Trust Fund.

13 “(3) SUBTITLE F MADE APPLICABLE.—For
14 purposes of subtitle F, any amount required to be
15 collected under an agreement under paragraph (1)
16 shall be treated as a tax imposed by chapter 23.

17 “(4) STATE.—For purposes of this subsection,
18 the term ‘State’ has the meaning given such term by
19 section 3306(j)(1).”

20 (2) CLERICAL AMENDMENT.—The table of sec-
21 tions for chapter 25 is amended by adding at the
22 end thereof the following:

“Sec. 3510. Coordination of collection of domestic service employ-
ment taxes with collection of income taxes.”

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to remuneration paid in calendar
3 years after 1993.

4 **SEC. 902. USE OF REPRODUCTIONS OF RETURNS STORED**
5 **IN DIGITAL IMAGE FORMAT.**

6 (a) IN GENERAL.—Paragraph (2) of section 6103(p)
7 (relating to procedure and recordkeeping) is amended by
8 adding at the end thereof the following new subparagraph:

9 “(D) REPRODUCTION FROM DIGITAL IM-
10 AGES.—For purposes of this paragraph, the
11 term ‘reproduction’ includes a reproduction
12 from digital images.”

13 (b) STUDY.—The Comptroller General of the United
14 States shall conduct a study of available digital image
15 technology for the purpose of determining the extent to
16 which reproductions of documents stored using that tech-
17 nology accurately reflect the data on the original document
18 and the appropriate period for retaining the original docu-
19 ment. Not later than 1 year after the date of the enact-
20 ment of this Act, a report on the results of such study
21 shall be submitted to the Committee on Ways and Means
22 of the House of Representatives and the Committee on
23 Finance of the Senate.

1 **SEC. 903. REPEAL OF AUTHORITY TO DISCLOSE WHETHER**
 2 **PROSPECTIVE JUROR HAS BEEN AUDITED.**

3 (a) IN GENERAL.—Subsection (h) of section 6103
 4 (relating to disclosure to certain Federal officers and em-
 5 ployees for purposes of tax administration, etc.) is amend-
 6 ed by striking paragraph (5) and by redesignating para-
 7 graph (6) as paragraph (5).

8 (b) CONFORMING AMENDMENT.—Paragraph (4) of
 9 section 6103(p) is amended by striking “(h)(6)” each
 10 place it appears and inserting “(h)(5)”.

11 (c) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply to judicial proceedings pending on,
 13 or commenced after, the date of the enactment of this Act.

14 **SEC. 904. REPEAL OF SPECIAL AUDIT PROVISIONS FOR**
 15 **SUBCHAPTER S ITEMS.**

16 (a) GENERAL RULE.—Subchapter D of chapter 63
 17 (relating to tax treatment of subchapter S items) is hereby
 18 repealed.

19 (b) CONSISTENT TREATMENT REQUIRED.—Section
 20 6037 (relating to return of S corporation) is amended by
 21 adding at the end thereof the following new subsection:

22 “(c) SHAREHOLDER’S RETURN MUST BE CONSIST-
 23 ENT WITH CORPORATE RETURN OR SECRETARY NOTI-
 24 FIED OF INCONSISTENCY.—

25 “(1) IN GENERAL.—A shareholder of an S cor-
 26 poration shall, on such shareholder’s return, treat a

1 subchapter S item in a manner which is consistent
2 with the treatment of such item on the corporate re-
3 turn.

4 “(2) NOTIFICATION OF INCONSISTENT TREAT-
5 MENT.—

6 “(A) IN GENERAL.—In the case of any
7 subchapter S item, if—

8 “(i)(I) the corporation has filed a re-
9 turn but the shareholder’s treatment on
10 his return is (or may be) inconsistent with
11 the treatment of the item on the corporate
12 return, or

13 “(II) the corporation has not filed a
14 return, and

15 “(ii) the shareholder files with the
16 Secretary a statement identifying the in-
17 consistency,

18 paragraph (1) shall not apply to such item.

19 “(B) SHAREHOLDER RECEIVING INCOR-
20 RECT INFORMATION.—A shareholder shall be
21 treated as having complied with clause (ii) of
22 subparagraph (A) with respect to a subchapter
23 S item if the shareholder—

24 “(i) demonstrates to the satisfaction
25 of the Secretary that the treatment of the

1 subchapter S item on the shareholder's re-
2 turn is consistent with the treatment of the
3 item on the schedule furnished to the
4 shareholder by the corporation, and

5 “(ii) elects to have this paragraph
6 apply with respect to that item.

7 “(3) EFFECT OF FAILURE TO NOTIFY.—In any
8 case—

9 “(A) described in subparagraph (A)(i)(I)
10 of paragraph (2), and

11 “(B) in which the shareholder does not
12 comply with subparagraph (A)(ii) of paragraph
13 (2),

14 any adjustment required to make the treatment of
15 the items by such shareholder consistent with the
16 treatment of the items on the corporate return shall
17 be treated as arising out of mathematical or clerical
18 errors and assessed according to section 6213(b)(1).
19 Paragraph (2) of section 6213(b) shall not apply to
20 any assessment referred to in the preceding sen-
21 tence.

22 “(4) SUBCHAPTER S ITEM.—For purposes of
23 this subsection, the term ‘subchapter S item’ means
24 any item of an S corporation to the extent that reg-
25 ulations prescribed by the Secretary provide that, for

1 purposes of this subtitle, such item is more appro-
2 priately determined at the corporation level than at
3 the shareholder level.

4 “(5) ADDITION TO TAX FOR FAILURE TO COM-
5 PLY WITH SECTION.—

**“For addition to tax in the case of a shareholder’s
negligence in connection with, or disregard of, the
requirements of this section, see part II of sub-
chapter A of chapter 68.”**

6 (c) CONFORMING AMENDMENTS.—

7 (1) Section 1366 is amended by striking sub-
8 section (g).

9 (2) Subsection (b) of section 6233 is amended
10 to read as follows:

11 “(b) SIMILAR RULES IN CERTAIN CASES.—If a part-
12 nership return is filed for any taxable year but it is deter-
13 mined that there is no entity for such taxable year, to the
14 extent provided in regulations, rules similar to the rules
15 of subsection (a) shall apply.”

16 (3) The table of subchapters for chapter 63 is
17 amended by striking the item relating to subchapter
18 D.

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 the date of the enactment of this Act.

1 **SEC. 905. CLARIFICATION OF STATUTE OF LIMITATIONS.**

2 (a) IN GENERAL.—Subsection (a) of section 6501
3 (relating to limitations on assessment and collection) is
4 amended by adding at the end thereof the following new
5 sentence: “For purposes of this chapter, the term ‘return’
6 means the return required to be filed by the taxpayer (and
7 does not include a return of any person from whom the
8 taxpayer has received an item of income, gain, loss, deduc-
9 tion, or credit).”

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to taxable years beginning after
12 the date of the enactment of this Act.

13 **SEC. 906. CERTAIN NOTICES DISREGARDED UNDER PROVI-**
14 **SION INCREASING INTEREST RATE ON LARGE**
15 **CORPORATE UNDERPAYMENTS.**

16 (a) GENERAL RULE.—Subparagraph (B) of section
17 6621(c)(2) (defining applicable date) is amended by add-
18 ing at the end thereof the following new clause:

19 “(iii) EXCEPTION FOR LETTERS OR
20 NOTICES INVOLVING SMALL AMOUNTS.—
21 For purposes of this paragraph, any letter
22 or notice shall be disregarded if the
23 amount of the deficiency or proposed defi-
24 ciency (or the assessment or proposed as-
25 sessment) set forth in such letter or notice
26 is not greater than \$100,000 (determined

1 by not taking into account any interest,
2 penalties, or additions to tax).”

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall apply for purposes of determining in-
5 terest for periods after December 31, 1990.

6 **SEC. 907. SPECIAL RULE FOR CORPORATE ESTIMATED**
7 **TAXES WHERE NO LIABILITY FOR PRECED-**
8 **ING YEAR.**

9 (a) GENERAL RULES.—Paragraph (1) of section
10 6655(d) (relating to amount of required installments) is
11 amended—

12 (1) by striking the last sentence of subpara-
13 graph (B), and

14 (2) by adding at the end thereof the following
15 new subparagraph:

16 “(C) SPECIAL RULES.—

17 “(i) Clause (ii) of subparagraph (B)
18 shall apply only if the preceding taxable
19 year was a taxable year of 12 months and
20 the corporation filed a return for such pre-
21 ceding taxable year.

22 “(ii) If—

23 “(I) the requirements of clause
24 (i) are met with respect to the preced-
25 ing taxable year,

1 “(II) the return for such preced-
 2 ing taxable year does not show a li-
 3 ability for tax, and

4 “(III) the requirements of clause
 5 (i) are met with respect to the second
 6 preceding taxable year,
 7 clause (ii) of subparagraph (B) shall be ap-
 8 plied by substituting ‘second preceding’ for
 9 ‘preceding’ and, if the return for the sec-
 10 ond preceding taxable year does not show
 11 a liability for tax, no addition to tax shall
 12 be imposed under subsection (a) for the
 13 taxable year.”

14 (b) EFFECTIVE DATE.—The amendment made by
 15 subsection (a) shall apply to taxable years beginning after
 16 the date of the enactment of this Act.

17 **Subtitle B—Tax Court Procedures**

18 **SEC. 911. OVERPAYMENT DETERMINATIONS OF TAX** 19 **COURT.**

20 (a) APPEAL OF ORDER.—Paragraph (2) of section
 21 6512(b) (relating to jurisdiction to enforce) is amended
 22 by adding at the end the following new sentence: “An
 23 order of the Tax Court disposing of a motion under this
 24 paragraph shall be reviewable in the same manner as a

1 decision of the Tax Court, but only with respect to the
2 matters determined in such order.”

3 (b) DENIAL OF JURISDICTION REGARDING CERTAIN
4 CREDITS AND REDUCTIONS.—Subsection (b) of section
5 6512 (relating to overpayment determined by Tax Court)
6 is amended by adding at the end the following new para-
7 graph:

8 “(4) DENIAL OF JURISDICTION REGARDING
9 CERTAIN CREDITS AND REDUCTIONS.—The Tax
10 Court shall have no jurisdiction under this sub-
11 section to restrain or review any credit or reduction
12 made by the Secretary under section 6402.”

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall take effect on the date of the enactment
15 of this Act.

16 **SEC. 912. AWARDING OF ADMINISTRATIVE COSTS.**

17 (a) RIGHT TO APPEAL TAX COURT DECISION.—Sub-
18 section (f) of section 7430 (relating to right of appeal)
19 is amended by adding at the end the following new para-
20 graph:

21 “(3) APPEAL OF TAX COURT DECISION.—An
22 order of the Tax Court disposing of a petition under
23 paragraph (2) shall be reviewable in the same man-
24 ner as a decision of the Tax Court, but only with re-
25 spect to the matters determined in such order.”

1 (b) PERIOD FOR APPLYING TO IRS FOR COSTS.—
2 Subsection (b) of section 7430 (relating to limitations) is
3 amended by adding at the end the following new para-
4 graph:

5 “(5) PERIOD FOR APPLYING TO IRS FOR AD-
6 MINISTRATIVE COSTS.—An award may be made
7 under subsection (a) by the Internal Revenue Serv-
8 ice for reasonable administrative costs only if the
9 prevailing party files an application with the Inter-
10 nal Revenue Service for such costs before the 91st
11 day after the date on which the final decision of the
12 Internal Revenue Service as to the determination of
13 the tax, interest, or penalty is mailed to such party.”

14 (c) PERIOD FOR PETITIONING OF TAX COURT FOR
15 REVIEW OF DENIAL OF COSTS.—Paragraph (2) of section
16 7430(f) (relating to right of appeal) is amended—

17 (1) by striking “appeal to” and inserting “the
18 filing of a petition for review with”, and

19 (2) by adding at the end the following new sen-
20 tence: “If the Secretary sends by certified or reg-
21 istered mail a notice of such decision to the peti-
22 tioner, no proceeding in the Tax Court may be initi-
23 ated under this paragraph unless such petition is
24 filed before the 91st day after the date of such mail-
25 ing.”

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to civil actions or proceedings com-
3 menced after the date of the enactment of this Act.

4 **SEC. 913. REDETERMINATION OF INTEREST PURSUANT TO**
5 **MOTION.**

6 (a) IN GENERAL.—Paragraph (3) of section 7481(c)
7 (relating to jurisdiction over interest determinations) is
8 amended by striking “petition” and inserting “motion”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall take effect on the date of the enactment
11 of this Act.

12 **SEC. 914. APPLICATION OF NET WORTH REQUIREMENT**
13 **FOR AWARDS OF LITIGATION COSTS.**

14 (a) IN GENERAL.—Paragraph (4) of section 7430(c)
15 (defining prevailing party) is amended by adding at the
16 end thereof the following new subparagraph:

17 “(C) SPECIAL RULES FOR APPLYING NET
18 WORTH REQUIREMENT.—In applying the re-
19 quirements of section 2412(d)(2)(B) of title 28,
20 United States Code, for purposes of subpara-
21 graph (A)(iii) of this paragraph—

22 “(i) the net worth limitation in clause
23 (i) of such section shall apply to—

1 “(I) an estate but shall be deter-
 2 mined as of the date of the decedent’s
 3 death, and

4 “(II) a trust but shall be deter-
 5 mined as of the last day of the taxable
 6 year involved in the proceeding, and

7 “(ii) individuals filing a joint return
 8 shall be treated as 1 individual for pur-
 9 poses of clause (i) of such section, except
 10 in the case of a spouse relieved of liability
 11 under section 6013(e).”

12 (b) EFFECTIVE DATE.—The amendment made by
 13 this section shall apply to proceedings commenced after
 14 the date of the enactment of this Act.

15 **Subtitle C—Authority for Certain** 16 **Cooperative Agreements**

17 **SEC. 921. COOPERATIVE AGREEMENTS WITH STATE TAX** 18 **AUTHORITIES.**

19 (a) GENERAL RULE.—Chapter 77 (relating to mis-
 20 cellaneous provisions) is amended by adding at the end
 21 thereof the following new section:

22 **“SEC. 7524. COOPERATIVE AGREEMENTS WITH STATE TAX** 23 **AUTHORITIES.**

24 “(a) AUTHORIZATION OF AGREEMENTS.—The Sec-
 25 retary is hereby authorized to enter into cooperative agree-

1 ments with State tax authorities for purposes of enhancing
2 joint tax administration. Such agreements may provide
3 for—

4 “(1) joint filing of Federal and State income
5 tax returns,

6 “(2) single processing of such returns,

7 “(3) joint collection of taxes (other than Fed-
8 eral income taxes), and

9 “(4) such other provisions as may enhance joint
10 tax administration.

11 “(b) SERVICES ON REIMBURSABLE BASIS.—Any
12 agreement under subsection (a) may require reimburse-
13 ment for services provided by either party to the agree-
14 ment.

15 “(c) AVAILABILITY OF FUNDS.—Any funds appro-
16 priated for purposes of the administration of this title
17 shall be available for purposes of carrying out the Sec-
18 retary’s responsibility under an agreement entered into
19 under subsection (a). Any reimbursement received pursu-
20 ant to such an agreement shall be credited to the amount
21 so appropriated.

22 “(d) STATE TAX AUTHORITY.—For purposes of this
23 section, the term ‘State tax authority’ means agency,
24 body, or commission referred to in section 6103(d)(1).”

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 for chapter 77 is amended by adding at the end thereof
 3 the following new item:

“Sec. 7524. Cooperative agreements with State tax authorities.”

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HR 13 IH—3

HR 13 IH—4

HR 13 IH—5

HR 13 IH—6

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